

The London School of Economics and Political Science

**The effect of proscription on pre-negotiation:
a comparative analysis of making peace with Colombia's FARC
before and after 9/11**

Sophie Haspeslagh

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Declaration

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Abstract

As the listing of armed groups as ‘terrorist organisations’ mushroomed following 9/11 a logical result would be a reduction in the number of settlements negotiated with these targets of proscription. Instead, peace negotiations have continued in parallel with the rapid expansion of listing. However, there is little understanding of *how* international proscription affects negotiations and peace processes, and in particular how it affects the process by which conflict parties get to the negotiation table.

This thesis explores the effects of proscription on pre-negotiation at both the symbolic and material level. By comparing the processes through which the Colombian government and the FARC arrived at the Caguán negotiations (1999-2002) and the Havana negotiations (2012-2016), and treating 9/11 and the international proscription of the FARC as a critical juncture, this research reveals the effects of proscription on the way in which peace processes are initiated.

The contribution of this thesis is three-fold. First, it proposes an innovative framework for how to study the effect of proscription on the inception of peace processes, highlighting the central importance of the ‘linguistic ceasefire’. In doing so, it critically revisits and extends central dynamics of the pre-negotiation literature: vilification, symmetry and ripeness. Second, it applies this framework to the Colombian pre-negotiations with the FARC, drawing on primary data from over 50 personal interviews with key actors involved in the negotiations and the qualitative discourse analysis of 20 years of statements by both conflict parties. Finally, it draws together insights from the framework and the case studies and their applicability to other, similar cases.

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On the 11 December 2007 my world was turned upside down by a terrorist attack. I was standing in the staircase of the United Nations Development Programme's office building in Algiers, Algeria, discussing my leaving party with Rheda, one of my colleagues and friends. All of a sudden, a terminally ill 80-year old man drove his van full of explosives into our office building. Rheda and being in the staircase saved me, but that was not the case for my seventeen other colleagues and friends who died that day and during the gruelling few days it took to get them out of the rubble left by the explosion. This thesis is dedicated to them and to their families and friends who survived them. It is also dedicated to all of us who are carrying the scars of violence in our souls and lives and to those working everyday to foster peace.

There is such a thing as a terrorist attack, I have lived it, I know how it feels, the shock, the horror, the injustice of it but most importantly the sheer fear that it could happen again anywhere and anytime. I want to acknowledge this fear for driving me to write this thesis. For pushing me to understand the difference between the label and the act, the act and the actor. I would lie if I said it has been an easy journey and at times the gruesome reality of what I have studied became too much for me to bear. But I remain convinced, now more than ever, that the only way out of violence, the only way out of terrorism, is dialogue and negotiations. For this I am grateful.

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Chapter One

Introduction

Introduction

During a speech given to the Colombian army on 8 September 2003, President Álvaro Uribe used the words “terror”, “terrorism”, “terrorist”, “terrorists” and “antiterrorist” 59 times to describe the threat of the armed groups in Colombia.¹ In the same speech he proclaimed:

Here we have been dominated by terrorism for decades, a terrorism hidden in our big cities and in more than 300 thousand kilometres of jungle, terrorism financed by drug trafficking. I do not believe that in the history of my generation, a richer, more powerful terrorism has been faced in the world, a more aggressive terrorism, more dangerous than the one we have faced in Colombia.

Fast-forward exactly twelve years later to September 2015 and we see President Juan Manuel Santos shaking hands with the leader of the Revolutionary Armed Forces of Colombia People’s Army (FARC for its Spanish acronym), Timoleón Jiménez (aka Timochenko). This unprecedented event took place in Havana, Cuba in the middle of the peace process between the Colombian government and the FARC to sign an agreement on the issue of transitional justice and the establishment of the ‘Special jurisdiction for peace’.

These two vignettes colourfully illustrate the contradiction that lies at the heart of this thesis, namely that contrary to what they claim in public, politicians often do end up negotiating with ‘terrorists’ (Kurth Cronin 2009, Pettyjohn 2009, Powell 2014). One study by RAND (Jones and Libicki 2008) shows that military force has rarely been the primary reason for ‘terrorist’ groups to end their activities. The study concluded that in the largest proportion of cases, it was because the ‘terrorist’ groups joined the political process. Governments are currently exploring negotiations with the Taliban in Afghanistan, the Communist People’s Party-National Democratic Front in the Philippines and the National

¹ Speech given by President Álvaro Uribe in honour of the new commander of the Colombian Air Force, General Edgar Alfonso Lesmez, Uribe, A., 2003, ‘Discurso del presidente Álvaro Uribe en la posesión del nuevo comandante de la FAC’, 19 September.

Liberation Army in Colombia. All these armed groups are proscribed internationally or listed as designated terrorist organisations.

International proscription is a widespread phenomenon, with an estimated 214 blacklists worldwide (de Goede 2011). Though there are discrepancies across proscription regimes and they vary in the details, the logic behind proscription regimes is the same worldwide. Countries and organisations initiating proscription regimes use them to contain what they see as security threats. The rationale is that by raising the costs of pursuing terrorist activities and reducing their support they will force individuals and groups to abandon them. Or, that it will be easier to isolate them, as their support will have been considerably narrowed. As the US State Department explains on its website about Designated Foreign Terrorist Organizations (FTO): “FTO designations play a critical role in our fight against terrorism and are an effective means of curtailing support for terrorist activities and pressuring groups to get out of the terrorism business.”²

Of the forty-armed conflicts active in 2014, all, bar one, were being fought within states (Pettersson & Wallensteen 2015). These armed intrastate conflicts tend to be asymmetrical in nature, pitting the state against one or more non-state armed actors. More than fifty per cent of these internal armed conflicts involved armed groups proscribed in one of the lists of designated foreign terrorist organisations drawn up by the United States, the United Nations, European Union or other Western governments.³ Following the World Trade Centre attacks on the 11 September 2001 (9/11) and the inception of the ‘war on terrorism’ one might have expected to see a reduction in the number of negotiated settlements, but “surprisingly perhaps the peace agreement phenomenon shows no sign of abating” (Bell 2008:211). In 2014, ten peace agreements were concluded, part of a continued positive trend in the number of peace agreements over the years (Pettersson & Wallensteen 2015).

So, one does not seem to preclude the other. Both the listing of armed groups as a terrorist organisation *and* negotiation and peace processes are present at the same time, both have different effects, each has a justification. Yet, there is little understanding of *how* international proscription affects negotiations and

² US State Department, *Foreign Terrorist Organizations*, Accessed on 28 July 2018 at: <https://www.state.gov/j/ct/rls/other/des/123085.htm>

³ Of the groups mentioned by Pettersson & Wallensteen (2015) from the Uppsala data set for 2014 and comparing it to the US, UN, EU lists of designated foreign terrorist organisations.

peace processes, and in particular how it affects the process by which conflict parties get to the negotiation table. This is what this thesis explores. It sheds new light on the questions surrounding the effects of proscription on peace processes. Given the breadth of the topic, it is useful to narrow the scope of the thesis to a more specific research question: how has proscription affected the inception of peace negotiations?

While proscription as a counter-terrorism measure has been rather neglected in academic literature (Jarvis and Legrand 2016, de Goede 2018, Kirkpatrick 2018b), there has been a recent focus on the constitutive side of proscription with authors looking at how and why the listings have emerged (Jarvis and Legrand 2016, 2017, 2018, Kirkpatrick 2018). Less has been written on the *effects* of proscription. Practitioners have been the most prolific when it comes to assessing the effects of international listings on human rights and civil society (Howell 2006, Browning 2010, Sullivan and Hayes 2010, Sentas 2014, Sentas 2018), humanitarian work (Patuliano *et al.* 2011) and peacebuilding (Helgesen 2007, Dudouet 2010, Haspeslagh and Dudouet 2011, Boon-Kuo *et al.* 2015). The scholarly work on the effects of proscription on peace process is in its infancy (Haspeslagh 2013, Birkeland 2014, Haspeslagh and Dudouet 2015) and has mainly focussed on the effects on third party actors. This emerging body of work has so far concluded that proscription has deeply influenced the type of peacebuilding work that is possible and had significant negative effects on the possible roles played by third party actors. While this thesis confirms these findings, it also highlights the innovative roles played by civil society actors in particular despite proscription. Moreover, the thesis goes beyond the focus on third parties to explore how international proscription has affected the conflict parties themselves and their interaction through key pre-negotiation dynamics. In doing so it offers an analytical framework for a systematic analysis of the effects of proscription on pre-negotiations.

9/11 and the passing of UN Security Resolution 1373 was a turning point which embedded proscription regimes deeply in the international system. The global reframing of a whole range of protracted armed conflicts as wars against terrorists has affected local conflict dynamics and their possible resolution. As Chapter 3 goes on to explain, this shift did not emerge overnight and there were a number of antecedent concepts that laid the ground for it, but it was the first UN

Resolution to invoke the right to self-defence (Article 51 of Chapter VII) against a non-state armed group. Moreover, this Resolution encouraged all member states to develop lists of terrorist organisations with no geographic boundaries or definition of what should be considered terrorism.

So, while the labelling of opponents in conflict has been going on for centuries and reflects one conflict party's opinion, the thesis argues that international proscription has solidified this judgment by creating a category and has both symbolic and material ramifications. It has embedded a characterisation that one side, the non-state actor, is illegitimate and violent, and the other side, the State is legitimate and should be supported in its fight against 'terrorists'. This symbolic shift has material implications as it not only affects the type of war being fought, but also the power relations between the parties making the possibility of concessions towards the listed armed group appear impossible.

The thesis is squarely rooted in the peace and conflict literature to understand the effects of proscription on pre-negotiations. It notably shines a new light on the classic conflict resolution paradigm of ripeness. While one would assume that international proscription would help 'ripen' a conflict by hurting listed armed groups and pushing them to the negotiation table, the empirical depth of the thesis shows that while the listed armed group undeniably suffered, international proscription actually postponed the two central elements of ripeness, the mutually hurting stalemate and the way out, from emerging. Proscription of the armed group bolstered the state to such an extent that it clouded its perception of a mutually hurting stalemate as well as blocking the way out as it delegitimised any possibility of dialogue with the listed entity.

The thesis also builds on critical approaches to terrorism studies in placing the study of terrorism in the context of conflict and peace studies (Toros and Telledis 2013, Telledis and Toros 2015) which helps explain how proscription legitimises certain practices and de-legitimises others. The thesis confirms that the terrorist framing forestalls non-violent approaches (Toros 2008, 2012), but it also goes beyond this by showing *how* this happens through the mechanisms of pre-negotiations, as well as how negotiations with internationally proscribed entities are still taking place. The idea of the 'linguistic ceasefire' developed in the thesis goes some way in explaining why certain conflicts remain stuck in the terrorism framing while others emerge from it. The Colombia case illustrates how the

‘linguistic ceasefire’ becomes a necessary pre-condition, deepening our understanding of the timing and sequencing of pre-negotiations in the context of proscription.

This first chapter proceeds as follows. The first section draws on conflict and peace literature and critical terrorism to clarify the terminology used in this thesis. The second section lays out the research design, methodology and the case selection criteria used. The third section gives a brief background to the Colombian conflict with the FARC. The fourth section gives an overview of the structure and the chapter concludes by highlighting the thesis’ overall contribution.

I. Terrorism and peace: clarifying concepts

While the next chapter will explore the existing literature and situate the thesis in on-going debates, this section simply clarifies certain central concepts used.

1. Terrorism not terrorists

Few words are as contested as ‘terrorism’. So much so, that the United Nations has been unable to agree a common definition of this term for decades. Scholars have not been immune to this trend either. Schmidt and Youngman (1988), in their seminal work on political terrorism, cite 109 different definitions of the word. Some define terrorism based on the targets of the attacks (Ganor 2011) others look at the goals of the violence pursued (Hoffman 2001). Some central elements that come up repeatedly in these divers definitions are: the use of violence and/or force, the political intent, the objective of instilling fear, the use of threats and the systematic nature of attacks (Schmidt and Youngman 1988).

Though the word terrorism has been used for over two hundred years, “it was only in the late 1960s and early 1970s that it emerged as a major category within discussions of political violence (Jackson et al. 2011:100). Though historically, the largest-scale terrorizing violence was carried out by state actors, such as eighteenth century Jacobin France, today, terrorism is largely associated with non-governmental sub-state agents (English 2009: 7). The use of terrorism as a strategy is emblematic of asymmetric warfare pitting non-state armed groups against government forces: “Terrorism is, after all, the weapon of the weak and

the tactic of desperation, in the absence of success with other tactics” (Zartman and Faure 2011:13).

It is important to differentiate between using the word terrorism to describe a type of violent strategy and using the word terrorist to describe a type of armed actor. Scholars in the field of terrorism studies tend to see the words ‘terrorist’ and ‘terrorism’ as “useful, if imperfect, political vocabulary” (Jones and Smith 2009). These terms are often used interchangeably. Once an actor is described as a ‘terrorist’ it is then a “terrorist, not only (...) *regardless* of what it does but also sometimes *in spite* of what it does” (Gearty 2008: 558). Onlookers will:

identify any act by a group labelled ‘terrorist’ as automatically and necessarily a terrorist action. It does so because by encouraging onlookers to see terrorism as something tied to specific organizations, anything those organizations do can therefore be viewed through this lens – whether or not their actions accurately fit the definition being employed. (Jackson *et al.* 2011: 111)

So, actors will still be regarded as ‘terrorist’ despite being involved in specifically non-violent actions. Groups like Hamas and Hezbollah, for example, can be political parties engaged in electoral politics and nevertheless are understood as just terrorists.

It is this tying of the terrorism label to a specific actor that is being investigated. In accordance with critical terrorism scholars, it is more useful to move away from a definition of terrorism towards attempts at describing the phenomenon (Jackson et al. 2011). The use of the word terrorism is indeed useful to describe types of actions in a broader repertoire of warfare. These would include actions such as hijacking, bombings, assassinations, kidnappings, hostage taking and suicide attacks against civilian targets. However, the use of the word terrorist to describe an actor is more laden. Gearty highlights the evolution of “the term terrorist from the description of a kind of violence to a morally loaded condemnation of the actions of subversive groups regardless of the context of their actions” (Gearty 2008: 559).

By understanding terrorism from the perspective of critical terrorism studies, the thesis is able to question this de-contextualisation and to re-contextualise actors. It also allows for the transformation of state and non-state actors engaged in terrorism:

Re-embedding acts of terrorism and those who perpetrate them in their temporal context discredits the absolutism and essentialism of the commonly used phrase ‘once a terrorist, always a terrorist’. Re-embedding them in their social context, moreover, discredits the use of the label ‘terrorist’ to describe groups or human beings altogether – leading us, the authors to reserve the term strictly for describing specific acts. (Toros and Gunning 2009:97)

By not taking the ‘terrorist’ label at face value, this study explores how international proscription, by solidifying this judgement, creates material and symbolic effects, which in turn affects perceptions and behaviour, the nature of the armed conflict and the possibility of its resolution. Central to this is the conceptualisation of peace processes, which the chapter now turns to.

2. Peace processes: the importance of pre-negotiation

This thesis is focussed on peace processes in protracted armed conflicts as first described by Azar (1986:36):

Such conflicts linger on for substantial periods of time, sometimes interrupted by relatively low-level coexistence and even cooperation. On the other hand, they play a significant role in reshaping the societies involved, and have a considerable spill-over effect into international society.

A peace process consists of “initiatives intended to help reach and implement a negotiated agreement to end an armed conflict and create the basis for a new political settlement” (Ricigliano 2005: 6). Peace processes are understood as dynamic and non-linear, where the main relationship is focussed on the conflict protagonists but it also leaves room to understand the roles played by other internal and external actors. The term ‘peace process’ was initially used during the US Secretary of State Kissinger led shuttle diplomacy effort in the wake of the Arab-Israeli war of 1973 by Harold Saunders and his colleagues (Saunders 1999: *Preface xix*) and was understood as “the operational framework for peacemaking”. Peace processes defy neat categorization. It is more of a “stop-go dynamic and complex choreography sequencing of initiatives and concessions” (Darby and Mac Ginty 2008:2).

While the notions of stages and phases do not fit neatly onto the reality of peace processes they are useful and an important analytical tool to understand how a peace process is initiated, moves forward (or backwards). Most of the

literature categorises peace processes in three phases: pre-negotiations, negotiations and post-negotiations (Zartman 1991, Höglund 2008, Mitchell 2008).⁴ Of particular relevance to analyse the effect of proscription on peace processes is the pre-negotiation phase. Indeed, proscription and the terrorist label appear, on the surface, to preclude the possibility for direct negotiations between the state and its proscribed opponent because of its highly polarising effect on the primary stakeholders and the public at large (Haspeslagh & Dudouet 2015). Exploring pre-negotiation allows us to study how, when and why parties get to the negotiation table and explore how proscription has affected these dynamics.

Pre-negotiation as a concept has received less attention than the negotiation or peacemaking phase itself or even the post-negotiation/implementation/peacebuilding phase. Leading scholars such as Harold Saunders (1985), Janice Gross Stein (1989), and I William Zartman (1989) started to develop an understanding of pre-negotiation in the late 1980s. Pre-negotiation is a particularly challenging phase, so much so that Saunders argued that “persuading parties to a conflict to commit to a negotiated settlement is even more complicated, time-consuming and difficult than reaching agreement once negotiations have begun” (Saunders 1985: 249).

Because pre-negotiation happens before official negotiations take place it is often sensitive or secretive in nature. To look at how proscription has affected efforts at engaging with and talking to armed groups through secret or indirect channels, for instance, leads to an understanding of peace initiatives in a broad way as “informal or formal, public or private, subject to popular endorsement or restricted to elite level” (Darby and Mac Ginty’s 2008:3). This also enables the thesis to take into consideration the role of third party actors who play a crucial role in contexts of proscription “because of the acute social distance between adversaries, which makes it potentially harder to develop inter-party empathy and trust, that are essential for lasting conflict resolution” (Haspeslagh & Dudouet 2015: 105).

⁴ Similarly, international negotiation literature defines international negotiations as consisting of a search for the diagnostic, the formula and the details (Zartman and Berman 1982:9). One notable exception is Guelke (2008), who breaks these phases down further, particularly the pre- and post-negotiation phases, identifying seven phases: pre-talks, era of secret talks, opening of multilateral talks, negotiating to a settlement, gaining endorsement, implementing its provisions and institutionalisation of the new dispensation.

This thesis highlights three dynamics as being central in the pre-negotiation stage: the passage from vilification to de-vilification, the move from asymmetry to symmetry and the emergence of ripeness through the mutually hurting stalemate and the way out. First, the pre-negotiation phase involves changing the public image of the adversary (Zartman 2008:121). The concept of villainising non-state armed groups adapted by Spector (2003) from his work on villainising states (1998) is particularly relevant for this thesis. Villainising, he explains, is the process of demonizing and dehumanizing the enemy and it needs to be reversed for official negotiations to be able to take place. The thesis will develop the idea of a 'linguistic ceasefire' to explain how the villainisation was reversed in the context of proscription.

Second, the introduction to this chapter made the point that a majority of conflicts today are intra-state as opposed to inter-state. Most of those can be classified as asymmetric. The use of terrorism, as a strategy, is also emblematic of asymmetric warfare pitting non-state armed groups against government forces. As Louis Kriesberg (2009:4) pointed out, "Asymmetries in conflicts deserve attention because they exist in some degree in all conflicts and often are obstacles to resolving or transforming a conflict equitably and durably." Asymmetry is a major obstacle for the inception of peace negotiations. A central feature of the pre-negotiation phases is the need to move from a situation of power asymmetry to establishing a sense of symmetry between conflict parties.

Last but not least, the most dominant concept in the peace and conflict literature on the question of timing or the *when* question of pre-negotiation is the process through which conflict parties become ready or *ripe* for negotiation. I. William Zartman (2000) argued that two conditions are necessary but not sufficient for a conflict to be ripe: the mutually hurting stalemate and the way out (Zartman 2008b). Parties perceive a mutually hurting stalemate when both sides think the costs of continuing the struggle exceed the benefits. Similarly, they also need to perceive a sense of a way out, meaning that both sides need to see a negotiated solution as possible. These two concepts are based on a cost-benefit analysis, so a rationalist understanding of actor's decision-making processes, but the element of perception is also central to these mechanisms.

These three dynamics, central to the pre-negotiation phase of peace processes, will form the basis of the analytical framework and will be engaged

with critically and in depth in the analytical framework. Having clarified the terminology used, the chapter turns to addressing the research question at hand and setting out the methodology used to answer it.

II. Research design, scope and methodology

To answer the question of how proscription has affected pre-negotiations, the research design is based on a deep exploration of one particular context, that of pre-negotiations with the FARC in Colombia. The comparison of two phases of pre-negotiations in the same context before and after 9/11 will allow for the complexity of the context to be understood and contingency explanations to be assessed. Moreover, an in-depth exploration based on extensive fieldwork and a qualitative methodology will unearth the particular dynamics of proscription thereby refining our conceptual understanding of pre-negotiations and proscription.

1. Research design and scope

To explore what difference proscription makes in terms of pre-negotiation dynamics, the main research design will be based on a ‘before and after’ comparative case study with 9/11, and the consequent international listing of the armed group as a terrorist organisation, constituting the pivotal moment or critical juncture. This thesis will look at a single longitudinal case study divided into two sub-cases as described by George and Bennett (2005). The first sub-case will look at a period of pre-negotiation before 9/11 and the second sub-case will look at pre-negotiation afterwards. Variation will thus focus on the central conceptual issue at hand: international proscription.

This study will follow Zartman’s (2005:8) advice that “The simplest way to achieve comparison is to examine multiple instances in the same case”. Using one case should help hold other features constant making it easier to isolate and identify the explanatory factors. This is a condition termed “structured, focused comparisons” (Zartman 2005:7). This is not to deny the variation that can happen over time, especially in the context of protracted armed conflicts, which by essence change and reshape societies. Nonetheless, the hope is that by applying the analytical framework on a single case and trailing the way in which

proscription has affected the dynamics of pre-negotiations, this should leave room for the careful analysis and weighing of alternative explanations.

The intensive study of one case can help us understand a larger class of cases (Gerring 2004, 2009). This study is relevant to a broad number of possible case studies. The introduction to this chapter noted that all, bar one, on-going armed conflicts are intra-state and involve armed groups according to the Uppsala data set, most of which have been internationally proscribed as terrorist organisations since 9/11. However, to narrow down the scope so as to fit the research design, it is important to have a case with the following four characteristics:

- Protracted national internal armed conflict
- Armed group proscribed by a foreign government or inter-governmental organisation
- Presence of a peace process with the armed group before and after international proscription
- Distinct peace processes taking place before and after 9/11

The study focuses on *national* intra-state protracted conflicts as opposed to internationalized armed conflicts. So, it will not include cases of inter-country conflict such as the one between India and Pakistan over Kashmir or cases of internationalised conflicts⁵ such as Afghanistan where the government is supported by the NATO-led International Security Assistance Force (ISAF) that in 2014 included troops from 34 different countries. Nor will it include cases where the armed group is or has become regional or global in its ambitions, such as the Lord's Resistance Army, or has formally affiliated itself with transitional movements such as Al-Qaeda, like the GSPC in Algeria.

There are potential cases that are not currently included in the Uppsala data set because they have reached a settlement, through a peace process or other means, or because they no longer produce 25 battle-related deaths in a calendar year⁶. Some of these are nonetheless relevant to this study because they involve

⁵ Uppsala Conflict Data Program growing number of internationalized armed conflicts, that is, "conflicts in which one or more states contributed troops to one or both warring side" (Pettersson & Wallensteen 2015: 536)

⁶ According to the Uppsala Conflict Data Program "An armed conflict is defined as a contested incompatibility that concerns government or territory or both, where the use of armed force between two parties results in at least 25 battle-related deaths in a calendar year. Of these two parties, at least one has to

internationally proscribed armed groups. For example the case of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) or the case of Spain and Euskadi Ta Askatasuna (ETA) over the Basque conflict both fulfil the four criteria. But more historical examples such as the Northern Irish conflict and the Irish Republican Army (IRA) or the South African one with the African National Congress (ANC) are not directly relevant here because they were settled before 9/11 so they would not fulfil the criteria of having peace processes before *and* after 9/11. Here is a sample of possible cases that fit the research design:

Table 1. Possible cases

Case criteria	Possible Cases					
Protracted national internal armed conflict	Spain Basque conflict with ETA	Colombia Conflict with FARC	Colombia Conflict with ELN	Sri Lanka Conflict with LTTE	Turkey Conflict with PKK	Philippines Conflict with CPP/NPA
Armed group proscribed by a foreign government/ Inter-governmental organisation	ETA US ('97) EU ('01) UK ('01)	FARC US ('97) EU ('02, suspended 2016)	ELN US ('97) EU ('02)	LTTE US ('97) EU ('06) UK ('01)	PKK US ('97) EU ('02) UK ('01)	CPP/NPA EU ('02) US ('02)
Presence of peace process before / after international proscription	1989 1998-99 2004-2006	1982-87 (1991-92) 1999-2002 2012-2016	(1991-92) 1994-95 1997-98 1999-2002 2017- 2018	1983- 1994-95 2002- 2006 on/off	99/2002-2004 2013-15	1995-98 2001- 04 on/off 2004-10 on/off 2016-17

Moreover, to be able to address some of the particular challenges raised in the literature on 'terrorist' groups, the case selection can be narrowed further based on the core characteristics of terrorist organisations identified in the literature. The case should therefore be a national internal armed conflict where the armed group is:

- seen as non-negotiable/irrational (extreme demands, revolutionary and/or ideological);
- seen as criminal;

be the government of a state. For intrastate conflicts, the location is a country." (Pettersson & Wallensteen 2015: 536)

- fighting a state considered as democratic by the international community.

The case of the negotiations between the Colombian government and the FARC appears to fulfil all these criteria. Colombia offers a good case study to explore the questions raised as both international proscription and efforts at engaging armed groups in peace processes are present. Furthermore, the FARC offers a strong case of an armed group seen internationally as a ‘terrorist’ organisation, having lost touch with its political agenda, involved in human rights violations and criminal activities and fighting a democratic state with a seemingly un-negotiable stance. Choosing a case from Latin America will also fill a vacuum identified in the literature on terrorism by Silke (2004: 202) when he noted that “It is somewhat disconcerting though to note that regions such as Latin America – which are acknowledged to have relatively high levels of terrorist violence and where terrorists are much more serious threats to established regimes – have received such paucity of attention.”

Moreover, the case of Colombia fits neatly with the proposed research method of a before and after case study. Two clear and distinct phases of pre-negotiations can be identified either side of 9/11. Looking at the pre-negotiation processes that led to the Caguán negotiation (1999-2002) between the Colombian government and the FARC, in a pre-proscription era, allows us to analyse a ‘normal’ context. In contrast, the lead-up to the Havana negotiation (2012-2016) between the Colombian government and the FARC allows us to analyse a post-proscription context and how this affected the pre-negotiation dynamics.

A more mundane but nonetheless important reasons also made the choice of the Colombian conflict with the FARC an obvious one. My language skills and pre-established knowledge and contacts in Colombia were important factors in terms of the quality of the data collected for this research.

2. Methodology

The thesis is based on a combination of deductive and inductive reasoning. The premise of the project is deductive in that it explores a gap in the scholarly literature and tries to understand how proscription impacts peace processes. Thereby developing a set of research questions and drawing out existing literature to build an analytical framework to understand the possible effects of proscription on pre-negotiations. At the same time, because there is little

scholarly work on this topic, the approach was rather open ended. It does not for instance test out hypothesis. Instead, the data that emerged out of the fieldwork helped in developing and refining the theories and concepts used to understand pre-negotiations and the effects of proscription. In that sense, the project is also inductive. Both approaches were used at different points in the process. Some have described this as an ‘abductive’ approach (Dubois and Gaade 2002, Thomas 2010, Kersten 2014), I see it more as a natural process of theory and empirics talking to each other during the life-span of the thesis.

To explain this process it is useful to look at a concrete example. The concept of the ‘linguistic cease-fire’ developed in the thesis for example emerged through deductive and inductive reasoning. While the initial literature review explored the dynamics of vilification and de-vilification, it rapidly became apparent that there was the need for a transition phase, a step between extreme vilification and de-vilification, but there was no specific theory or concept to use or test on the data. At the same time, strong evidence emerged from the fieldwork pointing towards this intermediary stage. The idea of a ‘linguistic cease-fire’ emerged both from the personal interviews and the discourse analysis conducted. Here it is important to acknowledge the analytical contribution of interviewees, particularly in a context like Colombia where there is excellent analysis.⁷ As I go on to explain in Chapter 5, several of my interviewees noted that from early 2011 President Santos had shifted his rhetoric towards the FARC considerably. They described it as a “ceasefire”⁸ or a “disarming of words”.⁹ This was confirmed by the discourse analysis I did of official government statements. After fleshing out this idea and defining its main components inductively from the Colombian context, I then also briefly tested it deductively on the Basque case, where it helped explain how pre-negotiations have got stuck in the context of proscription.

This back and forth between theory and empirics helped in generating concepts and theory, but also in shining an analytical light on an empirical

⁷ Pearce (2010b) pointed out for example that in Latin America the history of social mobilisation fostered close relations between social activists and intellectuals so the thinking and analysis is not just contained within academic institutions.

⁸ Virginia Bouvier, Director of the Colombia Program, United States Institute for Peace (USIP), *Personal interview*, February 2014, Washington D.C.; Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, January 2014, by phone.

⁹ Carlos Velandia, Former commander of the Ejército Nacional de Liberación (ELN) and appointed ‘Peace Manager’ by the Santos administration, *Personal interview*, June 2015, Bogotá, Colombia.

reality that had not yet received much scholarly attention. To do this, it was essential to use a qualitative methodology that could pick-up on this granular reality. The thesis is based on two main strands of data, beyond the usual review of primary (news) and secondary (articles and books) sources: statements by the conflict parties and personal interviews.

First, the thesis draws on the review of twenty years of statements and communiqués by successive Colombian governments and the FARC: 207 statements during four Colombian Presidencies (Gaviria, Samper, Pastrana, Uribe, Santos) and 128 communiqués by the FARC.¹⁰ Public statements made by the conflict parties themselves are analysed rather than mediated statements such as press accounts or commentary to examine the language used, the associations made and how those evolved at different moments and over time during the two pre-negotiation phases leading up to the Caguán and Havana negotiations. Mapping the representations made by the two sides through an in-depth qualitative discourse analysis of the texts, rather than a data mining process that automatically selects words, allowed the terms used to be understood within the context written. It also made sense because sometimes the absence of words or the fact the conflict opponent is not even mentioned can be very telling particularly in the case of the (de)vilification dynamics explored in Chapter 5.

Second, as the pre-negotiation phase and the issue of engaging with groups listed as terrorists is not one that is often discussed publically, a central feature of the data collection was based on personal semi-structured interviews with key actors (mainly elite-level) from the government, the armed group, third parties and conflict analysts. These interviews were essential in efforts to understand the effect of proscription on the perception of the actors themselves.

Approximately fifty people were interviewed in different locations.¹¹ After a

¹⁰ The collection of these materials came from a range of sources. Historical statements made by the Colombian government regarding the FARC had already been collated in the series edited by A. Villarraga Sarmiento 'Biblioteca de la Paz' 1994-1998 and 1998-2002. The Statements made by President Uribe (2002-2010) and President Santos (2010-2012) were retrieved from the archives of the Colombian Presidency website and President Uribe's personal website (2002-2006): <http://historico.presidencia.gov.co/>; <http://www.alvarouribevelez.com.co> 2007-2010: <http://historico.presidencia.gov.co/discursos/index.htm>; 2010-2012: <http://wsp.presidencia.gov.co/Discursos/>). The most recent FARC statements came from the FARC-EP website (<http://www.farc-ep.co>) and the historical statements, that were not systematically accessible in the public domain, were sent to the author directly by email from the FARC's own archives. All statements are in Spanish and translated into English directly by the author.

¹¹ A full list of interviewees can be found as an Appendix to this thesis.

series of initial exploratory interviews done via Skype and in person in Washington DC, USA between January and April 2014, a month was spent at the peace initiative project of the *Centro de Investigación y Educación Popular* (CINEP) in Bogotá, Colombia over May and June 2015. A field trip to Havana, Cuba also took place during that time, specifically aimed at interviewing members of the FARC who were there negotiating with the Colombian government. A subsequent follow-up field trip took place in October 2015 in Bogotá, Colombia. Moreover, in order to interview third party actors with direct experience of the two pre-negotiation phases interviews were conducted in Norway in February 2015, and in London sporadically over the course of the thesis.

Being non-Colombian, Spanish-speaking, and having worked and lived in Colombia previously, allowed for a wide range of contacts and good access to different spheres making the exploration of a sensitive topic in a polarised environment easier. Being based at the London School of Economics and Political Science somewhat helped when it came to accessing Government interviewees as it is President Santos' alma mater. To widen my pool of would-be interviewees and gain access to groups that are harder to reach, such as the military and the FARC in particular, I used a 'snowballing technique' whereby people interviewed or contacted then put me in direct contact with others through personal connections. This technique has been used widely in sociology for example to interview hidden or difficult to locate populations (Salganik and Heckathorn 2004).

Having access to the listed armed group to understand their perspective was essential to this research, but getting access to the FARC was challenging for three main reasons. The first reason, which is closely linked to the topic at hand, was the risk of criminalisation in Colombia if I were to meet with the group. I therefor contacted and got approval from the Colombian government, through the Colombian embassy in London, to meet with the FARC in Cuba, but not in Colombia. The on-going nature of the peace process during the research period made the FARC accessible for interviews (in Cuba) for the first time in over ten years. The second hurdle was to get clearance from the University's ethics committee for the project as a whole and for interviews with members of the FARC in particular. Here, the fact that the UK government did not proscribe the FARC made access to the group not directly problematic in terms of UK Counter-

Terrorism law for a researcher based in a UK Higher Education setting. This could have been impossible with a different armed group. The third issue was to establish direct contact with the FARC. Having had no previous contact with the armed group it took me over six months to establish an initial connection through a range of channels (social media, friends, other interviewees).

All interviewees were selected based on their knowledge of the two pre-negotiation processes under investigation. I strived to have an adequate balance of perspectives, governmental, non-governmental, armed group, as well as historical and current perspectives as I was covering a wide time frame. Some interviewees had been involved in both pre-negotiation phases. The interviews were managed in a semi-structured way. They followed a regular pattern of questions while at the same time leaving room for other issues and topics to emerge from the conversation. All interviews were recorded through note taking and some were audio recorded with the interviewees consent. When requested, quotes used from the personal interviews were sent back to interviewees to check their accuracy.

A number of interviewees requested for their identity to be kept anonymous. Because of the secretive nature of pre-negotiation, I was particularly sensitive to these concerns. I made certain interviewees anonymous while still giving a sense of their role or position. Moreover, because of the potential risks to interviewees linked to the possible criminalisation of individuals in contact with proscribed entities, I was very careful to keep certain things said to me off the record and choose not to include them in this thesis. Where I could, I made referenced to material that was already in the public domain.

The subject matter of this thesis is deeply intertwined with the methodology used. To understand the effects of proscription on pre-negotiations, it was essential to opt for an in-depth, qualitative case study approach based on field-work that allowed for the careful assessment of different perspectives and was nuanced enough to manage the complexities of this project. The core of the thesis' empirical chapters analyse the path to two rounds of negotiations between the Colombian government and the FARC either side of 9/11 using qualitative methods. To contextualise this work, we turn to a brief historical background on Colombia.

III. Background on Colombia

This is by no means an attempt at an exhaustive historical account of the Colombian conflict. The objective of this section is merely to contextualize the three empirical chapters on the pre-negotiations between the Colombian government and the FARC.

1. Complexity and the Colombian conflict

There is no consensus on the nature and origin of the armed conflict (González 2004).¹² The conflict is complex and is broader than the war between the Colombian government and the FARC. It involves other left-wing armed groups¹³ and took on an increasingly violent turn with the emergence of right-wing paramilitary groups which later merged under the umbrella United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia*) in the 1990s.¹⁴ Moreover, drug trafficking has made the war in Colombia more multifaceted, introducing new interests and actors, extending the space internationally by becoming a threat to global security (Medina Gallego 1999: 261).

There is a well-established body of scholarly literature in Spanish focussing on the violence and the conflict in Colombia. These authors are known as the *violentólogos*, Colombian historians and sociologists such as Germán Guzmán Campos, Orlando Fals Borda, and Eduardo Umaña Luna (1962), Francisco Leal Buitrago (1999), Gonzalo Sánchez (2009), Marco Palacios (2006) and French sociologist Daniel Pécaut (1991, 2001, 2006, 2013) amongst others. There is also a body of work emerging on the subject of peace in Colombia. Robert A. Karl (2017) for example has recently foregrounded the idea of peace and how it emerged in Colombian history. While much of the work on peace processes has

¹² Indeed building one understanding of the conflict, apart for not being the focus of this thesis, would also be incredibly challenging. One interesting resource in this regard is the report produced by the Comisión Histórica del Conflicto y sus Víctimas (2015). The Commission was tasked by the Colombian government and the FARC to “report on the origins and the multiple causes of the conflict, the main factors and conditions that have facilitated or contributed to its presence, and the most notorious effects and impacts of the population”(Comisión Histórica del Conflicto y sus Víctimas 2015: 13). The Commission set-up in August 2014 was made up of twelve experts and two rapporteurs. Finding it impossible to agree on one common understanding of the conflict, they wrote twelve separate essays each sharing their perspectives on the root causes and development of the conflict in Colombia and its impact.

¹³ During the late 1960s and early 1970s, the FARC was one of a number of new, small guerrilla groups, including the National Liberation Army (ELN), founded in 1964, the Popular Liberation Army (EPL), founded in 1967, and the M-19, founded in 1970.

¹⁴ Paramilitary groups grew exponentially between 1997 and 2003. They received a “level of tolerance and support from wealthy sectors and the authorities” in Colombia and became a key part of the State’s fight against the guerrilla (Romero 2007:450-451). The paramilitaries were responsible for over 60% of massacres in Colombia (Grupo de Memoria Histórica 2013:48). In 2001 the number of massacres committed by paramilitaries exceeded 200 (Grupo de Memoria Histórica 2013).

looked at the national level (Édgar Téllez, Óscar Montes and Jorge Lesmes 2002; Camilo Gonzalez Posso 2004; Cristina Rojas and Judy Meltzer 2005; Marc Chernick 2007, 2012), some authors such as Mauricio García-Durán (2004, 2006), Virginia Bouvier (2009), Saramineto Santander (2011), Esperanza Hernández Delgado (2012) and Chris Mitchell and Cristina Rojas (2012) have also traced the mobilization of civil society across the country and their role in building peace in Colombia.

While there is little consensus on the root causes of the conflict, there is more agreement on its negative consequences. Sixty years of protracted armed conflict have led to high levels of violence and a deep humanitarian crisis in Colombia – with the armed conflict started being described as a “war against society” (Pécaut 2001:288). According to the Grupo de Memoria Histórica (2013: 20), between 1958 and 2012, 220,000 people died because of the armed conflict, over 80% of which were civilians (Grupo de Memoria Histórica 2013: 32). Colombia is also the scene to one of the biggest displacement crisis in world. Estimates range from 4.7 Million to 5.7 Million (Grupo de Memoria Histórica 2013) people – roughly meaning that up to 15% of the Colombian population has been displaced. Of this displaced population, about one third is of African descent, more than half are women, and half are under the age of 15 (Bouvier 2009).

There have also been deep governance and democratic challenges leading some Colombian specialists to argue that “Colombia is a democracy without the people” (Pearce 1990: 207). Fernán Gonzalez and Silvia Otero (2011) developed the notion of ‘differentiated governance’ to explain some of the huge disparities and inequities found in the country. Contradictions in Colombia are striking. In parallel to the violent armed conflict, the country also has strong institutions and an incredibly progressive constitution, which emerged from previous peace negotiations in the 1990s. Colombia is deeply fragmented and while parts of the territory bear the brunt of the conflict, the rest has been able to continue modernizing (Pécaut 2008). This understanding of Colombia as a place where ‘order and violence’ (Palacios 2006) coexist is well established: “order and violence, stability and turbulence are not contradictory, but two sides of the same history” (Pécaut 2008: 16).

The principal division of conflict in Colombia are more closely related to class, rather than ethnicity, nation, or race. To a remarkable degree, the insurgency has represented a prolonged rural rebellion in a rapidly modernizing and urbanizing society. Second, to an unusual degree, Colombia's conflict has become intertwined with the international narcotics trade. (Chernick 2007: 51)

2. Background on the FARC

The actual emergence of the FARC can be traced back to the period known as *la Violencia* (1948-1953), the war between the conservatives and liberals that flared following the assassination of Jorge Eliécer Gaitán in April 1948. The FARC arose from a liberal self-defence group in Southern Tolima created by Antonio Marín, aka Manuel Marulanda, who would lead the FARC until his death in 2008. When both the conservatives and liberals chose General Rojas Pinilla as President of Colombia (1954-58) he declared an amnesty with the objective of disarming and demobilising guerrilla groups active during *la Violencia*. But the amnesty did not include the communists. The communist party was declared illegal in 1955 and regions in which communists were supported were declared war zones (Pearce 1990). At a time when a number of left-wing armed groups emerged, the FARC were formed under the umbrella of the Colombian Communist party in 1961 – the armed struggle was to be subordinated to a broader political strategy (Pearce 1990). The idea was to combine 'all forms of struggle' (Pécaut 2008). Though the FARC later broke away from the communist party, the armed group still defined its struggle as Marxist-Leninist, Bolivarian and communist, fighting for the rights of poor peasant-farmers (FARC-EP 2013).

Though the FARC has been a highly hierarchical armed group, Manuel Marulanda led it with a collegial style of leadership. The decision-making body of the FARC is the Estado Major Central (EMC) composed of 25 members and especially the Secretariat (*Secretariado*), elected by the EMC, composed of seven members. The National Conferences set the general orientation of the FARC. After its gruelling defeat in the battle of *Marquetalia* in 1964 the FARC moved from a defensive to an offensive guerrilla force. Between 1975 and 1982, the group went from having 5 to 24 fronts (Pécaut 2008). In 1982, during the 7th National Conference, the FARC decided to double its number of fronts and set its aim on 'taking power' (*toma del poder*). At the same time, the FARC added 'EP' to its name for 'the people's army' (*Ejercito del Pueblo*). The FARC became the

FARC-EP and the class-based struggle was focussed on seizing power in Colombia (Saramiento Santander 2011). When the army in La Uribe, Meta, attacked the headquarters of the FARC in 1991, the armed group renounced its sedentary strategy, which had allowed them continuous contact with representatives of government and society (Pécaut 2008: 56).

The FARC remained Colombia's largest active left wing armed group, until their recent demobilization¹⁵, with an estimated 8,000 troops across seven regional armed blocs that each had five to fifteen fronts and 4,000 militias. Since 1985 women have been recruited as regular fighters not just in support roles. Women represented roughly 40% of the armed group. The FARC was organised in battalions and had control of territory. In that sense, guerrilla and conventional warfare formed a big part of its armed strategies. But the FARC also used terrorist tactics such as hijacking planes, assassinations, bombing police stations and shopping malls, and is estimated to have kidnapped 8,578 Colombians and foreigners (Grupo de Memoria Histórica 2013: 67).

The FARC's funding came from internal sources, mainly through kidnapping, taxation and the control of the lower part of drugs trade (Chernick 2007). Unlike some other armed groups, it never benefitted from financial support from an international diaspora. Income derived from illicit crops became the FARC's principal source of funding (Arias et al. 2014:21-22) and made the armed group more autonomous as it no longer depended on its integration with rural communities (González 2004). This allowed the armed group to increase its recruitment and offensive capacities in the 1990s.

3. Negotiating with the FARC

As Vera Grabe, the co-founder of the M-19 movement which she led until 1990, said "No peace process can be understood in isolation, and in each process the previous ones appear: as light or as shadow." (Grabe 2004: 38). So, to understand the background to the Caguán and Havana peace negotiations with the FARC, it is useful to also briefly sketch out previous attempts at negotiating with the armed group.

¹⁵ The FARC do not use the term demobilization, they prefer seeing it as a political remobilization, Marcos Calarcá (Luis Alberto Albán Burbano), Member of the FARC negotiation team and International Secretariat, *Personal interview*, May 2015, Havana, Cuba.

Before the Caguán negotiation, there were two previous attempts at negotiating a peace agreement with the FARC that were significant. The first substantial effort to launch talks with the FARC happened in 1982, when President Betancur granted the armed group amnesty and offered to free political prisoners. As part of the peace negotiations, the FARC and the Colombian Communist Party created the *Unión Patriótica* (UP) political party in 1985. The UP achieved significant electoral success. But 3,000 members of the UP were killed in subsequent years, “victims of a systematic campaign of elimination at the hands of paramilitaries and the death squads, the objective of which was the annihilation of the UP as a political force” (Gonzales Posso 2004: 48). The FARC had at that stage not yet renounced the combination of all types of struggles and drew the conclusion from this episode that the only viable path was military (Pécaut 2008). The extermination of the UP was to cast a dark shadow over future peace negotiations.

The next substantive peace talks took place in Caracas (1991) and Tlaxcala (1992), negotiations hosted by Venezuela and Mexico between the Gaviria administration (1990-1994) and the Simón Bolívar Guerrilla Coordination Body (CGSB for its Spanish acronym). The CGSB was an umbrella organisation consisting of the FARC, the ELN and the EPL. While the CGSB struggled to develop a common agenda for negotiations, the government was more focussed on reaching an agreement with other guerrilla groups (M-19, PRT, and Quintín Lame) and forming a Constituent Assembly to develop the new Constitution. The government believed that a strategy that combined partial democratization through the Constituent Assembly and military pressure “would force the CGSB onto the defensive and oblige it to either seek reintegration or face marginalization” (Gonzales Posso 2004: 48). After the talks broke down, President Gaviria called for an integral war against the guerrillas. While the CGSB negotiations had a more positive effect on one sector of the ELN, known as the Socialist Renewal Current (*Corriente de Renovación Socialista* - CRS), which later signed a peace agreement with the government in 1994 (Grabe 2004). It had a more negative effect on the FARC. This failed negotiation experience with the CGSB pushed the armed group in the direction of opting for a military strategy. During its 8th National Conference in 1993 the group decided to reorganise its military structure to ensure they would have the capacity to overwhelm the army. The FARC during

the 1990s switched to an all-out war strategy, leaving politics aside until the Caguán negotiations.

While the lead-up to the Caguán negotiations will form an important part of Chapters 5, 6 and 7, it is also helpful to briefly understand how and why the negotiation itself failed as it cast a shadow over the Havana negotiations. Though the Caguán peace negotiations were formally launched on the 7th of January 1999 the negotiations got bogged down in procedural discussions and were deeply affected by violent actions on all sides. Certain people closely involved with the process describe the negotiations themselves more like a process of pre-negotiations. According to the former UNSG's Special Envoy "The process became the substance and took endless amounts of time. (...) we never got beyond talks about talks right until the end".¹⁶ But most importantly, during the Caguán, the armed conflict actually got worse while the negotiations were taking place (Egeland 2008) and military relations started shifting. As the FARC continued its slow numerical growth, the paramilitary groups achieved supremacy in important agricultural and strategic corridors for drugs and arms trafficking and the government security forces were able to modernize their equipment with new technology through the Plan Colombia with the United States (Gonzales Posso 2004). There was a deep problem with the negotiations - both parties were playing politics and war at the same time. These violent interactions deeply eroded the legitimacy of the negotiations and deepened the war (González, Bolívar and Vásquez 2003).

The FARC in particular lost a huge amount of credibility nationally. In sight of everybody, the armed group used the *despeje*, the demilitarised area that covered 42.000 km² in five municipalities of the Caguán (Caquetá), as a rest and training ground. The armed group also used the zone for recruitment, kidnapping and to control drug production.¹⁷ Not only did the FARC recruit 4.000 combatants during the actual negotiation, they also promulgated a decree know as the "ley 002" on 4 April 2000 to tax people whose patrimony exceeded 1 million US\$. This infamous "ley 002" was seen by many as a generalised kidnapping threat (Centro Nacional de Memoria Histórica 2013). People felt betrayed, the FARC

¹⁶ Interview Jan Egeland (UN Secretary General's Special Envoy to Colombia between 1999 and 2001), Oslo, Norway, 18 February 2015.

¹⁷ Coca cultivation in the *despeje* went from 16.000 to 25.000 hectares during the Caguán negotiations (Téllez, Montes and Lesmes 2002: 376).

had shown no 'will for peace' (*voluntad de paz*) and had used the Caguán negotiations only to get more power and territory.

Yet the FARC were not the only actor committing acts of violence during this period. As there was no cease-fire, both sides stepped-up armed actions. Similarly to the FARC, the Colombian government led a dual strategy. On the one hand negotiating with the FARC, and on the other investing heavily in modernising the military through Plan Colombia negotiated with the US government during that same period as President Pastrana (2013) himself admitted in his memoir. The approval of Plan Colombia in the middle of the negotiations, in mid-2000, increased the distance between the parties and affected the trust established (Grupo de Memoria Histórica 2013: 169). Some argue that the Pastrana government used the negotiation to legitimise its military strategy (Ferro and Uribe 2002).

Moreover, the exponential growth of paramilitaries over the same period deepened the conflict and increased the levels of violence. The AUC went from 4,000 to 8,000 fighters during the first three years of the Pastrana administration (Chernick 2007). Paramilitaries were the principal perpetrators of massacres. Of the 1.982 massacres committed between 1980 and 2012, the paramilitaries were responsible for 59% (Grupo de Memoria Histórica 2013: 47). The number of massacres peaked during the Caguán negotiations. In 2001 for example, the number of massacres exceeded 200 (Rojas 2005).

All armed actors committed acts of violence and the conflict itself steadily got worse during the Caguán negotiations. The key to the process became for each side to get out of the negotiation while convincing public opinion that the opponent had been the intransigent one (Ferro and Uribe 2002:162). In this regard, the government was more successful as the country blamed the FARC for the collapse of process. The particular abuses committed by the FARC in the demilitarised zone shocked the Colombian population deeply and were to set the stage for their extreme vilification. It also cast a long shadow over the Havana negotiations.

President Uribe was elected on the back of this disappointment. During his campaign he had harshly criticised the FARC's behaviour in the *despeje*. But, while some were expecting a full declaration of war in his inauguration speech, many were surprised when he asked for international mediation and the support of

the United Nations to reopen the possibility of dialogue.¹⁸ According to Édgar Téllez, Óscar Montes and Jorge Lesmes (2002: 380) the President's speech was well received by "experts and public opinion". This shows that while the FARC's behaviour during the Caguán negotiation deeply affected the armed group's standing politically, in the very early days of President Uribe's administration the possibility of dialogue with the group had not completely disappeared before the terrorist framing really took hold.

The three empirical chapters pick up the thread on the FARC from here. One last thing to highlight is the broad changes in the international environment since the FARC's emergence.

4. Evolving international understanding of the FARC

There have been three, sometimes overlapping, international paradigms shaping the geopolitical space in which the Colombian conflict with the FARC has evolved and been understood (Bouvier 2009). Each of these have largely been influenced by the US.

The first was the Cold War and approaches to counterinsurgency emerging in the 1950s. The fight against communism and counterinsurgency turned into the Alliance for Progress launched in 1961 by President John Kennedy. The Alliance for Progress was aimed at increasing the legitimacy of Latin American governments through the adoption of anti-poverty policies with the idea of preventing the spread of Communism (Fajardo 2003:2). The FARC, as the armed expression of the Colombian Communist Party, became a key focus in the US' efforts at supporting the Colombian government's counterinsurgency capacities.

The second was the US war on drugs in 1980s in the Andean producer countries. From the mid-1980s, the US downplayed the social and political dimensions of the Colombian conflict and focussed on the narcotics element (Chernick 2007:69). It was the then American Ambassador to Bogotá, Lewis Tambs, who first coined the term 'narco-guerilla' to describe the FARC in 1982 (Scott and Marshall 1991). Though experts derided the term (Scott and Marshall 1991), it was broadly employed in Washington to suggest that the

¹⁸ "I have asked the Secretary General of the United Nations, Mr. Kofi Annan, for the good offices of the institution to seek useful dialogue through the cessation of hostilities to give relief to society. In this framework, we will explore humanitarian solutions, free hostages, that come from agreements that envisage definitive peace as something possible", Uribe, Á., 2002, 'Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social', Bogotá, 7 August.

guerrillas were major drug traffickers and that counterinsurgency and counternarcotics operations were one and the same thing (Vargas 1999). It became an important basis for the increasingly militarized US war on drugs and it is in this context that the US included the FARC in its list of designated terrorist organisations in 1997.

The third was the war on terror post 9/11. Following the World Trade Centre attacks on the 11 September 2001, the understanding of the Colombian conflict became subsumed in the global fight against terrorism. The designation of the FARC as a terrorist organisation in the US took on a sharper meaning as the funds geared towards counter-narcotics could now be channelled towards counter-terrorism operations. It is also in this context that the FARC were included in 2002 in the European Union list of persons, groups and entities involved in terrorist acts and subject to restrictive measures.

Two things are worth noting. One is that the first two paradigms, the Cold War and the War on Drugs, seem to have had little effect on the way the Colombian government itself typified the conflict or the FARC. This becomes apparent in Chapter 5 when the language and discourse of both parties is analysed. It only shifts noticeably post 9/11 with the advent of the terrorist label. Second, while all these shifts took place at the international level and the FARC has been characterised in different ways, the FARC's actual demands have remained constant and focussed on land and political reform:

despite the extraordinary change in the dynamics of the internal war and the profound changes in the geopolitical context – from cold war to drug war to war on terror – the grievances and demands of the guerrillas, particularly the FARC, have been remarkably consistent. (Chernick 2007:52)

IV. Structure of the thesis

To understand the effects of proscription on pre-negotiation, this thesis explores the existing literature and draws out useful ideas and approaches for the analysis, delves into the historical background to proscription and the details of different regimes, develops an analytical framework to study the effects of proscription, then applies it thematically to the two sub-cases of pre-negotiation with the FARC. Before concluding on the thesis' contribution and future research implications, it also brings together the insights from applying the analytical

framework to the Colombian cases and assesses its applicability to other similar cases.

Chapter 2 situates the thesis in the neighbouring scholarly literature. Drawing on sanctions, (critical) terrorism studies, constructivism and labelling, securitization and the peace and conflict literature, the chapter highlights key arguments, ideas and approaches that will be relevant to this investigation. The chapter also reviews the emerging literature on the effects of proscription on peacebuilding and peace processes and argues that this work has had a limited focus on third party actors. It has so far failed to explore how proscription has affected the conflict parties themselves and the processes that lead them towards negotiations.

Chapter 3 takes a closer look at international proscription. First it discusses the history of proscription, how it came about and developed. By exploring antecedent concepts and pre-conditions that led to the emergence of international proscription, the chapter argues that 9/11 is a critical juncture when it comes to the study of proscription. The chapter also includes an explanation of what proscription entails by describing the main current international proscription regimes. By highlighting its symbolic and material features, the chapter starts teasing out certain key elements for the study of proscription, which will be central to the analytical framework.

Chapter 4 sets out an analytical framework to explore *how* the international listing of armed groups as ‘terrorists’ might affect the process through which conflict parties get to the negotiation table. After having described the possible material and symbolic effects of proscription, it turns to exploring how the different actors might be impacted. By mainly drawing on the peace and conflict literature, the chapter then turns to detailing the three key dynamics that are needed for conflict parties to start negotiating: 1) going from a position of vilification to de-vilification; 2) moving from a situation of asymmetry to establishing a perception of symmetry; 3) feeling a mutually hurting stalemate to envisioning a way out. Revisiting the key concepts in turn the chapter assesses how proscription might affect these central processes.

Chapters 5, 6 and 7, are the empirical heart of the analysis. By taking each of these dynamics – vilification/devilification, asymmetry/symmetry, mutually hurting stalemate/way out - in turn, the chapters explore how these dynamics play

out empirically in the two sub-cases. Looking at the pre-negotiation processes that led to the Caguán negotiation (1999-2002), in a pre-proscription era, allows us to analyse a ‘normal’ context. In contrast, the lead-up to the Havana negotiation (2012-2016) allows us to analyse a post-proscription context and how proscription affected these pre-negotiation dynamics.

Chapter 8 brings together the analysis of the three empirical chapters by assessing the overall impact of proscription on the dynamics of getting to the table in the case of Colombia. This chapter also explores how these findings resonate with another case study of initiating a peace process with a proscribed armed group, that of ETA in the Basque country. The chapter ends by assessing the strength of the analytical framework and its applicability to other (similar) cases.

Chapter 9 concludes with a reflection on the contribution of this research and the implications for future research avenues as well as what this implies for policy and practice.

Conclusion

This chapter started with the puzzle that despite the growing international trend of proscribing armed groups as ‘terrorists’ since 9/11, the phenomenon of peace negotiations with these groups shows no sign of abating. It also unpacked useful concepts for this research and laid out the research design and the case-selection process used.

By not taking the ‘terrorist’ label at face value, this thesis proposes to explore and analyse the effects of proscription both at a symbolic and material level. By comparing the processes through which the Colombian government and the FARC got to the negotiation table in the Caguán and in Havana, and thereby treating the international proscription of the FARC as a critical juncture, this research hopes to uncover the effects of proscription on the way in which peace processes are initiated.

The contribution of this thesis is three-fold. First it proposes an innovative framework for how to study the effect of proscription on the inception of peace processes, highlighting the central importance of the ‘linguistic ceasefire’. In doing so, it critically revisits and extends central dynamics of the pre-negotiation literature: vilification, symmetry and ripeness. Second, it applies this framework

to the Colombian pre-negotiations with the FARC drawing on primary data from over fifty personal interviews with key actors involved in the negotiations and the qualitative discourse analysis of twenty years of statements by both conflict parties. Finally, it draws together insights from the framework and the case studies and their applicability to other, similar cases.

This research is a first step toward understanding the effects of proscription on pre-negotiations. The findings that emerge are obviously provisional, as more case studies would need to be developed. Nonetheless, the analytical framework having been refined through the case of Colombia will then be reviewed through an initial exploration of the case of Euskadi 'ta Askatasuna (ETA which roughly translates as 'Basque Freedom') in the Basque country allowing the analysis to generalise some of the findings to the broader class of peace negotiations with proscribed entities. The next chapter explores the existing literature in neighbouring scholarly work to situate the project and draw out ideas that will be relevant to this thesis.

Chapter Two

Literature Review

Introduction

The previous chapter laid out how the thesis would address the question of the effects of proscription on pre-negotiation: through a comparative case study of two pre-negotiations having taken place on either side of 9/11. Having identified the Colombian conflict with the FARC as its main case, Chapter 1 gave some background on Colombia. It also laid out the structure of thesis. While the previous chapter also drew on existing work to clarify key concepts used in the thesis, it did not delve into reviewing the existing literature. This is the focus of this chapter, the objective being to situate the thesis in scholarly debates.

Analysis and discussion of the interplay between proscription and peace processes has mainly been produced within the practitioner realm (Helgesen 2007, Dudouet 2010, Dudouet 2011, Haspeslagh and Dudouet 2011; Boon-Kuo *et al.* 2015); it is only recently that it started receiving academic attention (Haspeslagh 2013, Birkeland 2014, Haspeslagh and Dudouet 2015). However, there are a number of other strands of scholarly literature in neighbouring fields of work that are relevant for this study, such as sanctions, (critical) terrorism studies, constructivism and labelling, securitization and the peace and conflict literature. As will become evident, each has limitations when it comes to the study of the effects of proscription on peace processes.

The chapter explores this existing literature to situate the thesis and draw out some of the arguments and approaches that will be useful to the investigation. The chapter reviews each strand of literature in turn. Starting with the work on sanctions, it then covers the full gamut from classical terrorism studies to critical terrorism studies, before exploring the realm of constructivism and the labelling literature. The chapter then turns to the concept of securitization before assessing to what extent the peace and conflict literature has engaged (or not) with the topic of proscription or related concepts. The chapter then explores the existing work on proscription regimes, particularly the nascent literature on proscription and peacebuilding before concluding.

I. Sanctions literature

Proscription is a type of targeted sanction against non-state actors. There is an established body of scholarly work on the effects of sanctions which has developed in tandem with efforts at refining the sanctions 'tool' for the policy environment. The sanctions literature has moved from an initial critique of sanctions as too comprehensive highlighting the humanitarian cost of sanctions, to more focussed assessments of targeted sanctions regimes. The main focus has been on measuring the effectiveness of the 'tool' in terms of policy and behavioural change of the 'target' or 'recipient'. Building on the work of Alexander George (1991) and coercive diplomacy literature, many of the arguments analyse the effectiveness of sanctions through a bargaining model. Sanctions is seen as a tool of persuasion by increasing the cost of defiance while offering benefits for cooperation, which translates into common parlance as the 'carrot and stick' model (Wallensteen 2005).

Even though proscription is very much a product of the 1990s 'sanctions decade' (Cortright and Lopez 2000), and the evolution towards more targeted sanctions, the sanctions literature does not address the impact of sanctions on non-state actor targets nor does it consider the effects on peace process dynamics. The 'target' being analysed is invariably the state. When the literature does turn its attention to assessing initiatives to counter terrorist financing, such as proscription, the focus remains on state actors. Moreover, the approach to listing is uncritical, it see it as invariably a good thing, which allowed the international community to coordinate efforts in the fight against terrorism finance. It measures success in terms of the multiplication of regimes by, for example, counting the numbers of regulations and laws that mushroomed post 9/11 (Biersteker, Eckert and Romaniuk 2008). This lack of a critical approach is probably linked to the fact that this strand of literature has evolved hand in hand with the policy tool itself, which means that it is of limited value to this study. It fails to question the regime itself and evaluate the effects proscription has on state and non-state actors or peace processes. The one aspect where this literature has been slightly more critical is on the impact of listing on human rights and the rule of law, but here again it is done in an effort to adjust the tool, mainly to argue for reforms to the

UN proscription regime to ensure a clear and fair listing and de-listing process (Biersteker, Eckert and Romaniuk 2008, Bierstecker and Eckert 2009).

Though this field of work is of limited value to assess the effects of proscription on peace processes, there are some findings that are worth salvaging for the purposes of this study. The central question addressed in the sanctions literature is whether or not sanctions work. The response from scholars has been “diverse, cautious, and qualified” (Cortright and Lopez 1995:7). While early scholarship on sanctions tended to focus on statistical generalisations of sanctions episodes (Institute for International Economics 1990) giving an overall success rate of 35 per cent, more recent scholarship is more nuanced in how to measure effectiveness. Instead of focussing on the primary objectives of sanctions, scholars argue that multiple objectives should be assessed even the most inexplicit ones. As Cortright and Lopez (1995:7) argue:

Sanctions often serve multiple purposes, each of which needs to be assessed when calculating impact. The official or publicly declared purpose of sanctions, usually defined as a specific policy change in the targeted state, is often considered the primary goals. Yet other objectives can always be identified, among them establishing deterrence, demonstrating resolve to allies or domestic constituents, and sending symbolic messages.

More recently, scholars have summarized the objectives of sanctions as three-fold: 1) to coerce, 2) to constrain or 3) to signal and/or stigmatize the target (Giumelli 2009; Biersteker, Eckert and Tourinho 2016) in an effort to be more specific in their assessment of success or failure. Of relevance to this study, much of the literature concludes that, very often, the principal outcome of sanctions is symbolic, and is more about naming and shaming rather than about extracting direct behavioural changes or impeding activities (Cortright and Lopez 2000, Cameron 2005, Eriksson 2009, Griffiths and Barnes 2008, Biersteker, Eckert and Tourinho 2016). But even when assessing the effects of signalling/stigmatizing, authors see the mere fact of an agreement by the international community to impose sanctions as a marker of success (Cortright and Lopez 2000). They pay little attention to understanding the actual effect of sanctions on the recipient and overlook what those targeted actually care about, need or perceive. This literature fails to analyse sanctions as a dynamic process.

Though this literature is limited for our purposes, it will be useful to bring forward a more nuanced understanding both of the objectives and the way in which one should measure the effectiveness of a type of sanction. The findings that sanctions have more symbolic effects rather than practically impeding activities or changing behaviour is relevant to the discussion on the possible effects of proscription which will be explored in the analytical framework.

II. From classical terrorism studies to critical terrorism studies

If the sanctions literature has focussed on the effect of sanctions on state actors, then orthodox or classical terrorism studies literature has mainly focussed on terrorism by non-state actors. An important focus of the work has been on defining and trying to understand the ‘terrorist’ threat (Schmidt and Youngman 1988, Hoffman 2001, Hoffman 2006, Crenshaw 2011) or the demise of ‘terrorist organisations’ (Kurth Cronin 2008, 2009). Authors in this field approach terrorism from a state-centric perspective, the state being the ultimate entity to be secured. Much of the research has been driven by policy concerns with authors defending liberal democratic society and seeing their role as fire fighting and needing to combat terrorism (Brannan, Esler et al. 2001, Silke 2001). Though some authors (Silke 2005) have explored how the state’s reaction to terrorism could in itself be a potential driver of terrorist campaigns through a desire of revenge, the field of terrorism studies has been mainly concerned with the effects of terrorism and how to deal with it rather than exploring the effects of counter-terrorism policies such as proscription.

Because of the state-centric focus of the work, the general approach is uncritical and scholars take the word ‘terrorist’ at face value (Jones and Smith 2009) rendering this strand of work of little utility for our purposes. The methods and research approaches used are also questionable - there appears to be a dearth of primary research and fieldwork, which is compounded by the idea that researchers should not meet or talk to ‘terrorists’. In the 1980s, Schmid and Longman (1988) argued that most research in the field was not producing substantively new data or knowledge. Writing before 9/11, Silke (2001: 68-69) was of the view that “terrorism research is not in a healthy state. It exists on a diet of fast-food research, quick cheap ready-to-eat and nutritionally dubious”.

1. The critical turn

Critical terrorism studies emerged as a reaction to the traditional terrorism field. As early as 1996, Zulaika and Douglas questioned the dominant discourses around terrorism that took centre stage in the United States following the World Trade Centre attack in 1993 and the Oklahoma City bombing in 1996. They underscored the narrative dimension of terrorism: “Once something that is called “terrorism” – no matter how loosely it is defined – becomes established in the public mind, “counterterrorism” is seemingly the only prudent course of actions.” (Zulaika and Douglas 1996: I Preface). Scholars who critiqued classical terrorism studies for the pro status-quo nature of much of its research and its lack of focus on historical and social context developed an alternative way of looking at terrorism. Critical terrorism studies take humans rather than states as its ultimate point of reference. One central tenet of this critical approach is to place terrorism in its context, thus inextricably linking the study of terrorist violence to counter-terrorism violence (Toros and Gunning 2009).

It allows for the analysis of proscription as a counter-terrorism tool. It also offers a way of looking at terrorism as conflict and thus at the tools of conflict resolution to investigate responses to terrorism violence (Toros and Telledis 2013). Critical terrorism studies lend itself more easily to an overlap with peace and conflict studies. Indeed, Telledis and Toros (2015) argue convincingly that the study of terrorism should be resituated in the field of conflict and peace studies. As Toros notes, “conflicts involving terrorist violence need to be understood as *conflicts* rather than as a terrorist anomaly.” (Toros 2015:221) She goes on to point towards potentially productive avenues for further research and policy engagement notably around how the terrorist label may further entrench conflict and how it can be discursively avoided. This is exactly the space that this thesis is exploring.

Unlike classical terrorism studies, critical terrorism questions the usage of the terrorist label. They argue that it is reductionist and potentially counter-productive to define a movement by its terrorist acts. As Toros (2008: 422) convincingly argued, “Reducing a group or a movement to its terrorist acts, which often do not even represent the main activity of the group, limits the group’s possibilities of being anything but a ‘terrorist group’”. This goes to the heart of what this study is investigating: how particular ways of conceptualising

‘terrorism’ and the use of the ‘terrorist’ label serves to legitimise certain practices while delegitimising others. Scholars in this field have also analysed how terrorism discourses are used to discredit opposition groups and legitimise state policy (Gunning 2007) and even to justify a global campaign of counter-terrorism (Jackson 2005) and why the naming of a group as ‘terrorist’ can forestall nonviolent responses to terrorism (Toros 2008, 2012). Similarly, Kirkpatrick (2018a) looked at how processes of criminalisation and de-criminalisation have affected peace negotiations in Northern Ireland and South Africa.

From the literature on terrorism, this study draws on the more critical approaches when it comes to defining and understanding terms such as ‘terrorism’ and ‘terrorist’ as was explained in Chapter 1. It also embraces the idea of having more linkages between the study of terrorism and the study of armed conflict and conflict resolution. Though Toros’ work in particular is relevant, it has been more focussed on how and whether talking can transform terrorist violence and has not explained *how* the use of the terrorist label itself affected conflict transformation or peace processes which is the focus of this study.

III. Constructivism and the labelling literature

As we have seen with the critical turn in terrorism studies and the work of Toros, Gunning, Kirkpatrick and Jackson, a number of scholars have been reflecting on the effect of labelling and naming of ‘terrorists’. Similarly, the labelling literature builds on a constructivist understanding of terms and labels as socially constructed which shape reality (Bhatia 2005, Renner and Spencer 2012). These scholars argue that the application of the term ‘terrorist’ involves an “inherent notion of illegitimacy” (Renner and Spencer 2012:5). Terrorism is a social construction, the terrorist actor is a product of discourse and ascribing the ‘terrorist’ label is not value free. Indeed, ‘terrorist’ is “a discursive label with normative implications” (Renner and Spencer 2012:7).

The idea that the label can shape reality is important when it comes to proscription. Central to the labelling literature is the understanding that a name will place emphasis on certain characteristics while neglecting others and thus lead to a more limited set of responses. Already in 1991, Hicks explored how terrorism was described during the Reagan and Bush administrations in the United

States, what metaphors were used and how they then fundamentally structured subsequent US foreign policy in the Middle East in particular. One example Hicks points to is how the idea that we cannot negotiate with terrorists was used to deny the efficacy of that particular course of action. He concludes that:

By emphasizing repression in its rhetoric, Reagan foreign policy makers placed themselves in a policy straightjacket. Rather than creating an atmosphere that facilitated a 'strong, flexible' response to dissident terrorism, this policy advocacy actually inhibited the range of potential responses at the administration's disposal, and in the process encouraged the appearance of incoherence and disorganization which challenged the credibility of America's self-appointed role as leader in the 'war' against terrorism. (Hicks 1991: 29)

Though there has been little academic work on the effects of proscription on peace processes *per se*, one area that has received some attention in a special issue of Third World Quarterly of 2005 is the politics of naming in armed conflict. As Bhatia (2005) wrote in his introductory article of the issue, discourse is “a tool for armed movements and a battleground and contested space in contemporary conflicts”. Bhatia (2005) argued that the politics of naming the opponent has two primary functions: 1) to recruit supporters; and 2) to justify action. He went on to argue that since the 9/11 attacks, the war on terror became the new dominant framework transplanted on local conflicts. Similarly to the Cold War before, the war on terror led to local variations and contexts to be understated compared to one big meta-narrative.

Two articles in the special issue, one on Sri Lanka and one on Chechnya, look at how naming affected attempts at political reconciliation and peace negotiations to a certain degree. On Russia, Russell (2005) focused more on explaining the evolution of the labelling of the Chechen conflict and how President Putin was able to subsume the Chechen insurgents as a threat in the broader war on terror post 9/11. He went on to argue that the demonisation of the Chechens had become a major obstacle to reaching a political solution because it excluded all moderate forces.

On Sri Lanka, Nadarajah and Sriskandarajah (2005) explored how the international and national rhetoric on terrorism affected the conflict with the LTTE. They argued that the rhetoric of terrorism had:

(T)hree distinct benefits for the Sri Lankan state: it de-legitimised (Tamil) agitation for political independence (with which terrorism has

been conflated) thereby enabling the ‘securitisation’ of the issue; it mobilised Sinhala sympathy for the regime and its actions; and, international criticism of rights abuses notwithstanding, accomplished the same abroad. (Nadarajah and Sriskandarajah 2005:91).

They concluded that the terrorist labelling had important discursive impacts and became a serious impediment to reaching a political solution, by masking the broader questions at the heart of the conflict, and delegitimising the Tamil political project. In a later article on Sri Lanka, Nadarajah (2018: 283) argued that terrorism proscription is “first and foremost an intervention for preferred (i.e. liberal) outcomes to violent political contestation in distant spaces.”

From this literature on labelling, it will be useful to bring forward this understanding that a name or label can shape action particularly when assessing the more symbolic effects of proscription. But, it is limited for our purposes because it stays focussed on the symbolic effects of labelling and does not consider proscription or its possible material consequences. Moreover, this literature does not offer an explanation of *how* labels lead to certain actions or non-actions.

IV. Securitization literature

The concept of securitization refers to the process of presenting an issue in security terms. The Copenhagen school has done much to develop an understanding of how security is socially constructed (Buzan *et al.*, 1998: 31) – seeing security as a “speech act” (Waever 1995:55). As Buzan and Hansen (2009:214) argue, “Security has a particular discursive and political force and is a concept that does something – securitise – rather than an objective (or subjective) condition.” The securitization of an issue or object is the “move” that takes it beyond politics: ““Security” is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics.” (Buzan *et al.* 1998: 23) It can no longer be debated as a political question, the “issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure” (Buzan *et al* 1998:24).

Securitization is mainly preoccupied with explaining the constitutive side of the story i.e. how and why an issue is framed in security terms. For example,

Corey Robinson's (2017) article on the *Sun Sea*, a Thai cargo ship carrying Sri Lankan asylum-seekers, successfully explains the process through which irregular migration was securitized in Canada. Similarly, and closer to the topic at hand, Buzan (2006) explored the war on terror as an example of 'macrosecuritisation'. He argued that the securitization move worked because "It has been successfully tied in to some pre-existing securitizations and has achieved a broad acceptance within international society." (Buzan 2006: 1106) So, while this approach can help shine a light on how the war on terror became accepted internationally, it does not help to explain the *effect* of this re-framing which is the focus of this thesis.

This literature has not looked at securitization in the context of peace processes nor has it explored the issue of proscription as a securitization move per se. However, one author that has explored the nexus between security and listings more broadly is de Goede (2012). She convincingly traced the securitization of terrorist finance by explaining "how the financial domain became one of the war on terror's prime avenues for banal pre-empting." (de Goede 2012: XXV). Though her work remained centred on the constitutive questions of terrorist finance, there are some relevant findings on the securitization of charitable donations for example that can be of use to this study. She argued that "the post 9/11 pursuit of charities in effect amounts to a new governing of transnational spaces of donations and political affiliations." (de Goede 2012:27) By exploring the cases of the Holy Land Foundation and Interpal, two Muslim charities investigated for providing material support to listed organisations, she showed that this securitization goes beyond the issue of money to include political affiliation and what types of political discourse are deemed acceptable or not.

Other strands of de Goede's work also highlight the productive power of lists – i.e. how they in effect materialise and organise the categories they set themselves out to describe (de Goede and Sullivan 2016) and the importance of the symbolic nature of blacklisting – describing asset freeze as a type of modern-day exile (de Goede 2012). While this strand of work offers helpful insights in terms of the possible symbolic and productive effects of lists, it has focussed on its individual impact – i.e. on the cases of individuals listed such as the Mr.

Nada¹⁹ or Mr. Kadi²⁰ not on the case of armed groups or on *dynamics* related to peace processes. Indeed, though Buzan *et al* wrote in 1998 that international security is a relational matter, there is little in securitization theory that helps illuminate the relational dynamics between actors.²¹

Securitization as an approach is relatively one-sided and focussed on understanding how one actor or an issue is securitized or de-securitized. It does not look at the *relationship* between these actors or how this evolves. Because the relationship between conflict parties is what lies at the heart of peace processes, securitization as a lens is of limited use to this study, though certain insights from de Goede's work in particular can be brought forward to understand the potential symbolic effects of lists.

V. Peace and conflict literature

The argument in this thesis is grounded in an analysis of the effects of listing armed groups as 'terrorists' on peace processes in the peace and conflict literature. While this literature will be covered in detail in Chapter 3 as it forms the heart of the analytical framework, the following section briefly highlights the way in which the peace and conflict literature has engaged (or not) with the topic of proscription, terrorism labelling and with similar concepts.

1. Negotiating with 'terrorists'

One branch of the peace and conflict literature, working within a conflict management and negotiation perspective, explored tactics for dealing with 'terrorist organisations' (Zartman 2003, Goerzig 2010, Zartman and Alfredson

¹⁹ Youssef Nada lived in an Italian enclave in Switzerland. Nada and the Al Tawaqwa Islamic Investment Bank he was heading were initially listed by the US, then placed on the 1267 UN Al Qaeda and Taliban list in 2001 and therefore subject to an asset freeze, and travel ban, which made it effectively impossible for him to leave his 1.6 km² enclave of Campione as Switzerland was obliged to deny him entrance. The European Court of Human Rights found the situation in violation of his right to private and family life, enshrined in article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (Nada v Switzerland 12 September 2012).

²⁰ Yassin Abdullah Kadi and the Al Barakaat International Foundation had been added to the US Treasury department OFAC list in 2001, and shortly after that by the UN 1267 sanctions committee as associated with the Taliban and Al Qaeda. Kadi and Al Barakaat were then also designated by the EU, since the EU directly implements the UN's consolidated list. Kadi and Al Barakaat filed a legal challenge at the EU level saying their fundamental rights were being infringed, "in particular the right to a fair hearing and the right to property" (Kadi & Al Barakaat International Foundation v Council and Commission 2008).

²¹ Indeed, Huysmans (1998), in a helpful early overview of five seminal texts of the Copenhagen school, points out that the approach initially tried to straddle boundaries between security studies and peace research but the peace research element was moved to the background in the early 1990s to focus on security.

2010, Höglund 2011, Zartman and Faure 2011). This literature tried to make the distinction between what it saw as ‘absolute terrorists’ - for whom the terrorist act is an end in itself and with whom negotiations are impossible - versus ‘contingent terrorists’ or ‘engageable’ terrorist – for whom the act is a means to an immediate goal (Zartman 2003; Zartman and Faure 2011). Scholars and policymakers have found this sub-categorization into ‘types’ of terrorists useful, particularly in understanding the ‘tactical question’, i.e. why or when does a government decide to negotiate with ‘terrorists’ and vice-versa (Zartman and Alfredson 2010). However, this strand of work still used the ‘terrorist’ label to describe armed groups unquestioningly. Similarly, Goerzig’s (2010) work on the contagion effect and whether engaging ‘terrorist’ groups only serves to reward other ‘terrorists’ very self-consciously chooses to use the terrorist vocabulary arguing that it is necessary to do so in order not to ghettoise her research – otherwise, she argued, it risked remaining unnoticed by terrorism scholars.

The difficulty with this body of literature is that it takes the ‘terrorist’ label at face value without questioning how the label *itself* affects efforts at engagement and is thus of limited value to this analysis.

2. From spoilers to ‘terrorists’

One concept from the peace and conflict literature, which has potential relevance as a parallel concept to proscription, is that of ‘spoiler’ developed by Stedman (1997). In his seminal article Stedman defined spoilers as factions or leaders who are willing to use violence to end a peace process they see as opposed to their interests.

The concept *itself* is of limited usefulness to this research but the debates around the *effects* of the spoiler label offer some useful insights. Zahar who has helped add nuance to these debates warned against the "danger of demonizing certain types of actors dubbed extremists and therefore excluded from the political processes surrounding peacekeeping and peacebuilding" (Zahar 2003: 268). Zahar argued that the spoiler concept should be able to account for the possible transformation and change in tactics of actors depending on the opportunities offered by a peace process (Zahar 2003). Her rationale being that actor's propensity to use violence depends on their capability *and* their opportunity structure.

Since 9/11 and the onset of the ‘war on terror’ insurgents and other non-state actors are more likely to be labelled ‘terrorists’ rather than ‘spoilers’ according to Newman and Richmond (2006). There has been little dialogue between the peace and conflict literature and discussions on terrorism apart from recent efforts by some critical terrorist scholars and post-liberal peace theorists (Toros and Telledis 2013; Toros and Telledis 2015; Richmond 2003; Richmond and Franks 2009; Franks 2009; Richmond and Telledis 2012). These fields of study have very different ontological and epistemological approaches to studying violence by non-state armed groups. The authors who critique the liberal peacebuilding model argue that liberal peace rests on “the exclusion of terrorist actors as well as perceived ‘non-liberal’ actors, at least until they renounce violence” (Richmond and Telledis 2012). Drawing for example on the international community’s refusal to accept Hamas’ election results in 2006, they show the liberal peace’s inability to engage in dialogue with actors seen as unacceptable. They further contend that states’ readiness to equate whole communities with ‘terrorists’ made the realisation of liberal peace even more remote. By neglecting the root causes of conflict, orthodox understanding of terrorism leads to an understanding of peace-as-security as opposed to peace-as-social-justice according to Richmond and Telledis (2012).

Richmond and Franks (2009: 214) looked at the interaction between orthodox terrorism discourse and the establishment of ‘liberal peace’: “Liberal peacebuilding and formal peace processes co-exist with terrorism and political violence: both impede and also influence each other”. They found that conflicts where orthodox terrorism discourse was being deployed to explain violence tended to be those where there was little interest in dealing with the root causes of the armed conflict (Richmond and Franks 2009). Terrorism language was being used as a pejorative term by hegemonic states to legitimate the use of state violence and avoid negotiations and compromise with non-state armed actors. Looking at five cases studies (Sri Lanka, Occupied Palestinian Territory, Kashmir, Nepal, and Northern Ireland) they concluded that Northern Ireland is the only case that illustrated a clear shift away from orthodox terrorism and securitised discourse and where an alternative discourse about peace was able to emerge and later dominate. In a major oversight, the authors do not reflect on the fact that Northern Ireland is the only case study they explore in which the peace

negotiation, which led to the Good Friday Agreement, took place pre-9/11. In doing so, the authors miss an opportunity to assess whether this change in the global environment and the shift in what it meant to be branded a terrorist post 9/11 is actually what led the other cases to remain stuck in orthodox terrorism discourses.

This literature points out that the ‘terrorist’ label erects barriers for peace processes and closes important channels of communication but it does not explain how it does it, nor does it explain how and why governments still negotiate with armed groups that have been labelled ‘terrorists’ which is what this thesis is exploring.

VI. Proscription Regimes

As Jarvis and Legrand (2016, 2018), de Goede (2018) and Kirkpatrick (2018b) noted, proscription as a counter-terrorism measure has been neglected in the scholarly literature. The limited work that has explored this phenomenon has mainly focussed on the constitutive questions regarding proscription (Jarvis and Legrand 2016, 2017, 2018, Kirkpatrick 2018b). In the context of the United Kingdom Jarvis and Legrand (2016) show how proscription served instrumental, cooperative and symbolic functions. In an analysis of Parliamentary Questions on the issue of adding groups to international proscription lists, Jarvis and Legrand (2017) show how audience can shape security policy. More recently, Jarvis and Legrand (2018) edited a special issue of *Terrorism and Political Violence* focussed on proscription at a global level, which helpfully compares and contrasts some of the main proscription regimes and their emergence, construction and some of their consequences. In that special issue for example, Bourne (2018) used securitization theory to explain how the proscription of ETA as a terrorist organisation was extended to social and political organisations that operate in the same political spheres as ETA, known as the *Izquierda Abertzale*. This strand of literature is mainly interested in exploring and critiquing why and how proscription regimes are developed which is not the focus of this research.

Of more relevance is the work by human rights and humanitarian activists and researchers, lawyers and peace practitioners who have been the most prolific on the effects of proscription to date. There has been work on assessing the impact

of counter-terrorism legislation more broadly and proscription more specifically on human rights (Bowring 2010; Sullivan and Hayes 2010), on self-determination movements and migrated diaspora (Sentas 2014), on the justice for stateless and other dispossessed peoples (Sentas 2018). There has been quite a bit of work on the effects of proscription on humanitarian actors (Pantuliano et al. 2011) and on the space for civil society to operate (Howell 2006, Cortright et al 2011). Authors find that counter-terrorism provisions such as proscription can criminalise humanitarian action and undermine humanitarian principles of neutrality and impartiality. This strand of work received some media and policy attention in the wake of the 2011 famine in Somalia and the realisation that the US proscription regime, particularly its material support clause, which will be detailed in Chapter 3, was affecting the flow of aid reaching southern Somalia and the populations under the control of Al-Shabab, a proscribed armed group.

1. Proscription and Peacebuilding

Of more direct relevance to this thesis is the developing literature on the effect of proscription on peacebuilding and peace processes. This was initially explored by individuals or organisations directly involved in third party mediation or peacebuilding with proscribed organisations (Ricigliano 2005, Philipson 2005, Helgesen 2007, Santos 2010, Dudouet 2010, Dudouet 2011, Haspeslagh and Dudouet 2011, Gross 2011, Haspeslagh 2013, Haspeslagh and Dudouet 2015, Dumasy and Haspeslagh 2016), or political activists close to listed groups (Elejabarrieta Diaz 2015). These studies have tended to be workshop reports or articles focused on a number of case studies (Maoists in Nepal, LTTE in Sri Lanka, IRA in Northern Ireland, ETA in the Basque country, MILF in the Philippines). They all highlighted the significant negative effects that proscription appears to have on the dynamics of peace processes and armed groups.

Helgesen wrote in 2007 from the perspective of a practitioner as a former Norwegian deputy minister for foreign affairs (2001-2005). He was responsible for the government's 'peace diplomacy' including Norway's involvement at the time in mediation between the Sri Lankan government and the LTTE. Helgesen sees deep problems with how terrorism expressed in national contexts has been subsumed within global terrorist networks and argues that the practice of terrorist

listing disabled European Union member states from playing active roles in certain conflict resolution processes. In the case of the LTTE in Sri Lanka for example, he argued that the international community's lack of contact with the LTTE, particularly with the group's leadership, led to a range of miscalculations on the part of the armed group.

Similarly, in a series of workshop reports and policy briefs produced between 2009 – 2011 (Dudouet 2010, Chatham House and Conciliation Resources 2010, Dudouet and Haspesslagh 2011) a number of peacebuilding organisations, notably Conciliation Resources, the Centre for Humanitarian Dialogue, Berghof Foundation, and the United States Institute for Peace explored how the US, UK and EU proscription regimes were affecting third party mediation in peace processes. They all pointed towards the negative impact of proscription on efforts by peacebuilding organisations, but the analysis was anecdotal rather than systematic and was not grounded in a theoretical approach.

From a more legal perspective on the impact of the US proscription regime, Bialostozky (2011) highlighted the legal uncertainties faced by organisations having contacts with listed entities. Gross (2011) explored the challenges around the listing of the Maoists in Nepal. He argued that following the proscription of the Maoists by the US in 2003 “the terrorist label became the primary lens through which the US perceived the conflict in Nepal and intervened to mitigate its effects.” (Gross 2011:44) He went on to argue that the lack of contact and connections with mid-ranking Maoist cadres affected the possibility of the US wielding any influence on the process. However, neither Bialostozky nor Gross developed a specific framework for analyzing the effects of proscription.

Several more recent articles have delved a bit deeper into the subject matter. One was my own analysis from a conflict practitioner perspective (Haspesslagh 2013). The article offered an analytical framework for assessing the effects of proscription on third party actors by clarifying the key roles they play, namely understanding armed groups, influencing how the group sees itself, affecting the group's strategic calculations and organising training in conflict resolution and negotiation. It also assessed how proscription influenced access and trust as two pre-conditions for third party actors to play these roles. By using this framework on a series of short cases ranging from engagement with Hamas to the Taliban in Afghanistan the article

[M]ade apparent that the listing of armed groups as terrorist organisations has narrowed the possibilities for third parties to effectively understand groups, influence them, affect their strategic calculations and train them in conflict resolution. (Haspeslagh 2013:17)

This framework was later used by Birkeland (2014) in his Masters thesis on the case of the LTTE in Sri Lanka. He found that the listing of the LTTE hindered the work of third party actors:

The proscriptions prevented contact between crucial actors such as the US and the EU to the LTTE, in addition to decreasing the levels of trust in the process. This reduced the ability of the third-party actors to affect the strategic calculations of the LTTE and move the group away from using violent means. The proscriptions thus seem to have had a negative effect on the framework for the peace process. (Birkeland 2014:5)

A chapter I co-authored with Véronique Dudouet in 2015 continued to explore the effects of proscription on peace practitioners. It looked at how the terrorism and counter-terrorism framework affected the work of conflict resolution practitioners in Colombia and the Basque country and was part of a broader project exploring the interaction between the study of critical terrorism and conflict and peace (Telledis and Toros 2015). The chapter highlighted the intense polarisation that follows proscription and the stigma attached to the whole political social community associated with listed groups (Haspeslagh & Dudouet 2015). It explored the particular challenges faced by insider mediators, or those actors that are closely associated to an armed group and often play an important role in coaxing armed groups to embrace non-violent paths (Haspeslagh & Dudouet 2015).

In a report funded by the Berghof Foundation, Boon-Kuo, Hayes, Sentas and Sullivan (2015) took a systematic look at the impact of proscription on peacebuilding actors in three cases: Somalia, Turkey and the Occupied Palestinian Territories. The focus of the analysis remained on third party peacebuilding. They argued that the impact of listing is not just a question of unintended consequences but that it is in fact an essential feature of the international counter-terrorism framework which aims to disrupt and undermine “core elements of emancipatory peacebuilding work” (Hayes *et al.* 2015:3). The authors raise important questions on how proscription is transforming the nature of existing armed conflicts but also

how it has been changing operational practice and strategies of peacebuilding organization: “terrorist designation shapes the kind of peacebuilding possible” (Hayes et al. 2015:44).

This thesis builds on this emerging body of work. However, it will go beyond its limited focus on third party actors to also explore how proscription has affected the conflict parties themselves and the processes that lead them towards negotiations. It will also fill a scholarly gap by developing a theoretical framework grounded in academic work to assess the effect of proscription on the initiation of peace negotiations.

Conclusion

The study of proscription has been neglected in academic literature. While there is some work that has emerged looking at the constitutive side of the question to understand how terrorist lists emerge, little has been done to understand the productive effects of these lists. On the specific issue of how proscription influences peace processes there has been some work by peace practitioners that pointed to the difficulties it created in terms of engaging with proscribed armed groups. It is only very recently that the subject has been explored academically in the peace and conflict literature and, so far, it has been uniquely focussed on assessing the impact on third party and peacebuilding actors.

Neighbouring strands of literature have limitations when it comes to the study of proscription, but some of their findings are helpful for this study. One of these is that the possible impact of proscription might be above all symbolic. The sanctions, the constructivist and the labelling literature come to the conclusion that it is the symbolic effects of the label or the sanction that is the most pronounced. Similarly, one securitization author, Marieke de Goede (2012), also highlighted the deeply symbolic power of lists as a type of modern day exile. This will be explored in the analytical framework alongside the material effects of proscription.

While there is a strand of the peace and conflict literature which uses the ‘terrorist’ label unhesitatingly, this thesis draws from insights of the critical terrorism literature instead. This strand of work placed the study of terrorism and the ‘terrorist’ label in the context of the conflict and peace literature, this allows

for an analysis of both conflict actors and their relationship and interaction. Building on the work of Harmonie Toros (2008, 2012) who argued that the terrorist framing forestalls non-violent approaches, this thesis adds to this work by explaining *how* this happens. It also sheds light on how negotiations *do* still take place with groups considered ‘terrorists’. The concept of the ‘linguistic ceasefire’, which will be developed in the analytical framework, helps explain how these challenges are overcome. But, before moving on to the analytical framework, the next chapter contextualises the study of proscription by giving background on this phenomenon, explaining its emergence, antecedent concepts, and main features.

Chapter Three

International Proscription

Introduction

Though international proscription regimes are a recent phenomenon, it is important to understand their genesis, how they emerged and what they entail before we turn to studying their effects on peace processes. As Chapter 2 made apparent, little has been written about proscription so far. Though there is plethora of work tracing the history of terrorism, a historical review of international proscription does not exist.²² The aim of this chapter is to address this gap and contextualise the study of international proscription on peace processes. How is it that a whole class of armed groups has been categorised and listed as ‘terrorists’ internationally? Did it not happen before 9/11? Are all proscription regimes the same? What does being on these lists actually entail? To address these questions, the chapter will explore the background to proscription’s emergence, bringing to light the antecedent concepts and pre-conditions that allowed the concept to take hold and spread. It will also describe the main proscription regimes and compare their similarities and differences.

The development of proscription regimes has been event-led. In cases where states have been victim of terrorist attacks on their own soil, proscription has become an important tool for governments that need to be seen to be doing *something* in response to the public outrage. This was the case of the UK in 1974 following the IRA pub bombings, which led the government to establish its first proscription regime a few weeks later, and of the US following the 11 September attacks. But the extent to which countries such as the US have been able to influence others to take on their own proscription agenda has been deeply affected by broader geo-political dynamics. It was limited during the Cold War because many countries wanted to protect the rights of national liberation movements, and there was another global power that could balance US hegemony.

The chapter argues that 9/11 was a turning point for the emergence of international proscription and should thus be considered a critical juncture for the

²² For an example of a historical contextualization of a *national* proscription regime, see Kirkpatrick’s (2018b) excellent genealogical analysis of the discursive roots of proscription in Northern Ireland.

study of the phenomenon. 9/11 gave the US unprecedented legitimacy to call for global action. The key result was the passing of UNSC Resolution 1373, a sea change that set proscription regimes against non-state actors at the heart of the multilateral agenda. It was the first time Article 51 of Chapter VII on the right to self-defence²³ was invoked in the context on an attack by a non-state armed group. Moreover, because the Resolution did not make reference to 9/11 or any geographic region, it was the first binding resolution addressing ‘international terrorism’ as a global phenomenon. By decentralising the definition of what terrorism is and who should be considered a ‘terrorist’ and encouraging all member states to setup their own proscription regimes, UNSC Resolution 1373 allowed for the multiplication of international proscription regimes at a regional and national level. Conflicts between governments and armed groups around the globe have been re-framed as wars against ‘terrorists’.

Though the objective of the chapter is not to be a comprehensive history of terrorism, the history of proscription regimes is closely intertwined with evolving concepts of terrorism and who should be considered a ‘terrorist’. The first section of this chapter follows a broadly chronological order but has grouped together events to highlight key trends and patterns to trace the emergence of proscription as a type of counter-terrorism measure. The second section of this chapter lays out the key features of the main international proscription regimes and explores their similarities and differences.

I. A potted history of international proscription regimes

It is often believed that international proscription regimes only came about in the context of what under U.S. President George W Bush became known as the ‘global war on terror’. Though it is true that they spread significantly after 9/11, they built on existing national and international experiences and frameworks for dealing with non-state violence in the 20th century.

²³ Article 5, Chapter VII, Charter of the United Nations (1945) says: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”

1. Anarchists and propaganda by deed

The emergence of non-state terrorism²⁴ is generally dated back to the second half of the 19th century and early 20th century, when a generation of anarchic subversives emerged following the failure of popular revolts across Europe in 1848 (Gearty 1991). It was closely intertwined with the creation of the modern state. What was to be known as ‘propaganda by deed’ or anarchist terrorism became a European-wide, and then an international, phenomenon in the late nineteenth Century: “Anarchist assassinations and bomb-throwings occurred in sixteen countries on three continents: in Europe, Australia, and North and South America.” (Jensens 2009: 90). Attacks were widespread - between 1894 and 1912 seven heads of state and monarchs, in Europe, Russia, and America, were assassinated by anarchists or former anarchists (Jensens 2009). The anarchists also resorted to more indiscriminate acts of terrorism such as bombings in public spaces, including the bombing of a restaurant in Paris in 1892 or the Royal Observatory in Greenwich Park two years later.

When the violence was at its most convulsive in the 1880s and 1890s, states began to pass anti-anarchist legislation. Thirteen countries for instance passed legislation against ‘propaganda by deed’, which included criminalising membership of anarchist associations and prohibiting public support for anarchists and incitement to commit anarchic acts (Jensen 2009). These laws set an early precedent for national proscription regimes, though states did not establish lists of banned anarchic groups. Instead they labelled as ‘anarchist’ whomever threw a bomb or assassinated a prominent person. It was the *act* that was criminalised, not the *actor*.

States dealing with anarchism in this period also started to look to each other for cooperation and support in a way that foreshadowed international proscription dynamics. The 1898 International Anti-Anarchist Conference in Rome was the first attempt by states to coordinate law and policy to combat this type of violence (Romaniuk 2010). The focus was on making it harder materially for anarchists to pursue their strategies. They discussed prohibiting and punishing the use of explosives for ‘illegitimate purposes’ and membership of anarchist

²⁴ Historically, state actors carried out the largest-scale terrorizing violence. The word emerged in the eighteenth century to describe the ‘Reign of Terror’ under the National Convention led by Maximilien Robespierre and the Jacobins in France. The word “terreur” means fear in French. Today, terrorism is largely associated with non-governmental sub-state agents (Richard English 2009: 7).

associations. Significantly, they agreed that these types of acts should be treated as non-political crimes, meaning that anarchists would be subject to extradition agreements (Romaniuk 2010). By excluding a political defence for anarchists, states were trying to limit the possibility of them seeking refuge or political asylum in neighbouring countries. States feeling threatened by violence they considered illegitimate began a practice of *quid pro quo* to root out unwanted dissidents (Jensens 2009).

While certain states were trying to symbolically de-legitimise anarchists as criminals who could not be protected by the political defence when it came to extradition, a number of countries with a tradition of giving refuge to political opposition figures, in particular Belgium, Britain and Switzerland, ended up refusing to extradite suspected anarchists or to renounce their right to grant asylum (The Economist 2005). But, the idea of terrorism being considered an extraditable offence returned in the League of Nations discussions on defining terrorism in 1937. Though the Convention for the Prevention and Punishment of Terrorism and its definition never entered into force, it is noteworthy that it specified terrorism could be considered ‘non-political’ and therefore extraditable (Romaniuk 2010). The efforts made by states to cooperate at an international level to deal with what were seen as anarchist or terrorist threats was mainly centred on getting consensus on the non-political nature of this type of violence, so that individuals using these methods and attacking states would not be granted ‘political’ privileges by other nations. At a national level, the idea of criminalising the act of membership of a group or the incitement of public support for a group’s cause gained ground and would later become central tenets of national proscription regimes.

2. National liberation struggles and the turn to terror tactics

Following the Second World War, the decolonisation wars of the 1950s led to a number of successful national liberation campaigns in countries including in Aden, Angola, Cyprus, Guinea Bissau, Kenya, Mozambique and Oman. Most liberation movements were initially guerrilla movements focussed on armed struggles in the countryside. At a global level, the rights of these national liberation struggles were established in international law through the 1960 UN General Assembly Declaration on the Granting of Independence to Colonial

Countries and Peoples. This ensured that most liberation movements ended up succeeding in their political aspirations.

The more intractable conflicts were in places like Algeria, Northern Ireland, Rhodesia (now Zimbabwe) and South Africa, where there were larger and longer established settler communities. As guerrilla tactics failed to produce rapid victory, independence fighters started turning to terrorist tactics, often inspired by Leninist-Marxist ideology and earlier national struggles (Chaliand and Blin 2007). An early example of this was the Algerian revolt against French rule between 1954 and 1962, which was amongst the last of immediate post-war anticolonial struggles. The Algerian National Liberation Front (*Front de Libération Nationale* – FLN) started a campaign of mass urban terrorism to coincide with the opening session of the UN General Assembly in 1957 (Hoffman 2007). These attacks provoked the French government into a crackdown that included a string of summary executions and the use of torture, which further mobilised internal and external support for the independence movement that eventually prevailed. The FLN's tactics had a big impact on later ethno-nationalist campaigns such as those of the Palestinian Liberation Organization (PLO) and the African National Congress (ANC) (Hoffman 2007).

Similarly in Latin America, in the late 1960s, insurgents transferred their guerrilla tactics to urban warfare. Carlos Marighella, the founder of the Revolutionary Communist Party of Brazil, believed in engaging in a strategy of provocation, forcing local authorities to react repressively (Chaliand and Blin 2007b: 231). The idea was that if the state was provoked into reacting then its 'rottenness' would be exposed for all to see (Gearty 1991).

The 1970s and 1980s saw the emergence of new tactics such as hijacking and hostage taking and new targets including foreign nationals. Facilitated by technological advances in air travel and communication these struggles for self-determination and national liberation started being played out internationally. It was now a global phenomenon. The Ustachi, for example, who wanted independence for Croatia, took over the Yugoslav mission to the UN in 1977 and also hijacked a flight of the American airline TWA (Gearty 1991). But, the conflict that ended up being played out most extensively on the international stage and was described by some as the birth of "terrorism as a publicity stunt" was the Palestinian conflict (Chaliand and Blin 2007: 98). Though this had already

emerged in the 19th century through the ‘propaganda by deed’ the rapid technological changes through the 1970s and 1980s gave the Palestinians a much wider audience. At the same time as Europe was facing heightened internal threats described below, Palestinian violence became increasingly internationalised in 1970s and 1980s, reaching European capitals. After the humiliation of the Arab cause in the 1967 six-day war, the Palestinian movement launched a wave of aircraft hijack and attacks on civilians in European cities. The high point of this ‘international terrorism’ was the assault by Black September on the Munich Olympics in 1972.

In the first twenty years of the UN’s existence the institution paid scant attention to notions of terrorism and proscription (Romaniuk 2010). When some of these national liberation struggles led to internationalised terrorist attacks the response of global fora like the UN was greatly influenced by Cold War dynamics. In the General Assembly, there was a group of countries that wanted to preserve the legitimacy of national liberation movements in Asia, Africa, and especially in the Middle East, and wanted to avoid having the use of violence towards such ends being labelled as ‘terrorist’ (Romaniuk 2010). This position united a broad coalition of non-aligned countries and Third World communists. The Soviet Union sided with this bloc. On the other side Western states sought to affirm the principle that certain violent tactics are not justified by any cause, as innocent civilians are the primary victims (Romaniuk 2010). The lack of consensus about what actually constituted terrorism deeply divided the Security Council.

3. The emergence of national and regional proscription legislation in Europe

During the 1970s and 1980s Western Europe became the theatre of attacks perpetrated by groups representing three different types of political violence: 1) nationalist and secessionist struggles such as Northern Ireland, Corsica or the Basque conflicts; 2) ideological and radical left-wing groups such as the Red Brigades or the Baader-Meinhof group; and 3) the internationalisation of the Palestinian conflict. This violence being played out in Western Europe led to states starting to develop national proscription regimes and to the beginnings of regional cooperation on terrorism.

Secessionist struggles in Northern Ireland, the Basque region and Corsica initially had a degree of domestic support. However, as groups started attacking a wider set of targets, it led to increased public alienation and the emergence of national proscription legislation. In Britain, the proscription regime was developed after the peak in attacks linked to Northern Ireland during the 1970s.²⁵ It is interesting to note that ‘terrorism’ as a subject did not appear in the index to the House of Commons debates until 1971 (Gearty 2008). The passage of proscription legislation in Britain was event-led and linked to the public outcry. The Prevention of Terrorism (Temporary Provisions) Act of 1974 was passed just a week after IRA pub bombings in Birmingham that killed 21 people and injured 180 in November of that year. This Act prohibited membership of the Irish Republican Army (IRA) and later the Irish National Liberation Army (INLA), and made it a crime to arrange meetings with those proscribed groups. Still, proscription was “subject to much anxious consideration” as it was seen as a draconian measure even though the IRA had been waging a series of attacks in London and other British cities over the two preceding years (Gearty 2007: 356).

In an empirical study of Irish people’s experience of the 1974 Prevention of Terrorism Act, Hillyard (1993: 257) argued that the legislation and its powers of arrest, detention, exclusion and proscription in effect “all played their part in making the Irish living in Britain, or Irish people travelling between Ireland and Britain, a suspect community”. Symbolically, the Irish were tarred as a threat. Though Sinn Fein was a legal political party, they were very closely associated with the IRA and in 1982 exclusion orders were used to prevent the visit to Britain of three leading Sinn Fein members (Gearty 2008). The 1980s also saw a great reduction in the media coverage of Sinn Fein as the British government urged journalists not to give them airtime on the grounds that terrorists drew support from access to radio and television (Gearty 2008).

Ideological groups such as the Red Brigades in Italy, the Red Army Faction in Germany (also known as Baader-Meinhof Group), the Angry Brigade in Britain, Action Directe in France, the Communist Combatant Cell in Belgium, and the Weather Underground in the United States were radical left-wing groups that

²⁵ The first Stormont Government had proscribed the IRA in Northern Ireland after the establishment of the Northern Ireland Assembly in 1922 (Kirkpatrick 2018b). After the rise in attacks on English soil, the IRA went from being seen as a problem contained in Northern Ireland to a national security threat (Kirkpatrick 2018b).

sought to draw out repression by the state. In response, Western European countries like France, Italy and West Germany reinforced their police response and often adjusted their criminal codes to make ‘terrorism’ an aggravating crime, but did not establish proscription regimes. In Italy, the government did not create a special legal regime but adjusted the criminal procedure code in 1979 and 1980 to add the new crime of “belonging to associations with terrorist aims and subversion of the democratic order” (Weinberg 2007: 53). Similarly in West Germany, the criminal code was amended between 1974 and 1978 including sentences of up to five years for directly or indirectly participating in a terrorist organization (Chalian and Blin 2007b). Amongst these governments there was an increased awareness of the need to cooperate in dealing with what they saw as ‘linked’ ideological movements.

At the same time as Europe faced these heightened internal threats, Palestinian violence also arrived in European cities. At that time, “all the talk was of ‘terrorists’ and terrorism” (Gearty 2008: 560). European governments decided to take coordinated action and in 1977 signed the European Convention on the Suppression of Terrorism. It was the first time the Council of Europe dealt directly with the issue of terrorism (QCEA, Briefing Paper 12). Reminiscent of the anti-anarchic conference, this convention ensured that European governments would exclude political defence in its extradition policies. However, there was no attempt at developing a regional proscription regime at that stage.

The year 1985 is considered to be a turning point in international opinion on terrorism due to the high number of terrorist attacks and states directly affected. As many as 782 incidents were recorded over the course of the year, including hijackings and hostage crises (Romaniuk 2010). A change in the tone of multilateral counter-terrorism rhetoric was reflected in UN Resolution 40/61 (9 Dec 1985), which unequivocally condemns as *criminal* all acts of terrorism (Romaniuk 2010). An international consensus was slowly emerging criminalising the act of terror and thereby de-politicising groups committing these acts. However, governments wanting to be more active on terrorism in 1970s and 1980s found they could not get sufficient momentum at the UN level because of Cold War dynamics and turned to regional bodies instead. This was the case with the 1977 European Convention, and the G-7 group of states that issued the Bonn declaration on International Terrorism (Romaniuk 2010).

4. The United States building a link between the Soviet Union and terrorism

In the late 1970s and 1980s, the United States was amongst the states that were particularly targeted by terrorist incidents in other countries, many linked to conflicts in the Middle East. The US embassy assault in Teheran in 1979 that led to 66 Americans being taken hostage was a watershed, and so was the October 1984 attack against US Marine barracks in Beirut that killed 241 US soldiers. Though the Cold War had lost some of its significance in the Middle East, particularly since the 1967 Arab-Israeli war and the 1979 Iranian revolution, the US administration still used Cold War logic to understand the region, seeing friends and foes in Lebanon, Iran and Libya through a Cold War lens (Toaldo 2013). This was also due to local players trying to present their agenda in terms compatible with Reagan's Global Cold War. For example, the Israeli Prime Minister Menachem Begin described the invasion of Lebanon as a crucial victory in the fight against the Soviets (Toaldo 2013).²⁶ Reagan's presidency also saw the rise of conservative think tanks that ensured this issue stayed on the agenda and crystalized the idea that Soviet support for the Palestinian cause made it the "godfather of terrorism" across the world (Gearty 2008: 562).

This Cold War logic in Reagan's administration conditioned the elaboration of the US' response and the development of its counter-terrorism policy. The key idea elaborated by Jeane Kirkpatrick, then US ambassador to the UN, and Secretary of State George P. Shultz, the President's main advisor on counter-terrorism, was to differentiate between freedom fighters and terrorists depending on which side of the Cold War these insurgent groups were placed (Kirkpatrick 1979 and Schultz 1984 quoted in Hicks 1991). Reagan's government established a Task force on Combating Terrorism, which published a report in February 1986 that was used to establish US counter-terrorism policy. The US portrayed "terrorists" thus: "seeking to destroy freedom and democracy, terrorists deliberately target noncombatants for their own cynical purposes. They kill and maim defenseless men, women and children." On the other side: "Freedom fighters in contrast, seek to adhere to international law and civilized standards of conduct. They attack military targets, not defenceless civilians" (Bush 1988). In

²⁶ It is interesting to note that Menachim Begin, winner of the Nobel Prize in 1979 along with Anwar Sadat, had formed the right-wing Zionist group Irgun, which was behind the attack against the British administrative headquarters in the King David Hotel in 1946, which killed over 90 people.

November 1988, the government published a study to provide Americans with detailed information about the key ‘terrorist’ groups around the globe. Fifty-two groups were singled out as responsible for terrorism in the Middle East, Western Europe, Latin America, Asia and Africa (US Government 1988).

So, certain armed groups around the world were labelled ‘terrorists’ others were labelled ‘freedom fighters’. Though the US had not yet developed a proscription regime targeted towards non-state armed groups, the language developed by the Reagan administration over this period deeply influenced foreign policy and diplomatic relations. It also started embedding the symbolic de-legitimation of ‘terrorists’. The US encouraged allies to follow their lead. None was more enthusiastic than the United Kingdom under Margaret Thatcher, who in 1984 expanded the 1974 Prevention of Terrorism prohibition to ‘international terrorists’, including groups such as the PLO and the ANC. It was only in 1996 that the US passed its first legislation authorising the Secretary of State to designate ‘Foreign Terrorist Organisations’ through the Antiterrorism and Effective Death Penalty Act (80.S.C.1189) (Kurth Cronin 2003).

Many of the attacks that occurred internationally in the 1970s and 1980s carried the hallmark of ‘state-sponsored terrorism’. Countries such as Syria, Libya and Iran were seen as having directly supported gun attacks in Rome and Vienna in 1985 and the blowing-up of the PanAm jet over Lockerbie in Scotland in December 1988 (Gearty 2008). This led the US to establish a list of ‘State-sponsors of terrorism’ in 1979 through which the US Secretary of State provided Congress with a list of countries thought to have “repeatedly provided support for acts of international terrorism” (quoted in Kurth Cronin 2003:6). US Secretary of State George P. Shultz urged the employment of international sanctions at a global level “to isolate, weaken, or punish states that sponsor terrorism against us” (Luck 2004:90). However, the Cold War dynamics in the 1970s and 1980s made it impossible for the US to engineer coordinated action at the UN level. The USSR, for example, voted against sanctions in the case of the Iran hostage crisis. The end of the Cold War fundamentally changed these dynamics.

5. 1990s: the sanctions decade

The UN Security Council became much more pro-active in leading coordinated action towards what it perceived to be threats to international peace and security.

During the 1990s one of the main avenues for doing so was through the imposition of sanctions. A tool that was only used twice in the first 45 years of the UN's existence became so frequently used that the 1990s were termed the "sanctions decade" (Cortright and Lopez 2000). In the early part of the decade these sanctions tended to be comprehensive economic sanctions. But, as we saw in Chapter 1 when reviewing the sanctions literature, disillusionment quickly set in as cases like Iraq and Haiti seemed to show that economic and humanitarian pain outweighed political gain (Elliot 2005 and Doxey 2007). A series of reform processes sponsored by the governments of Switzerland, Germany and Sweden known as the Interlaken (1998-2001), Bonn-Berlin (1999-2001) and Stockholm (2001-02) processes influenced policy and practices regarding sanctions in the late 1990s and early 2000s, "reflecting a broader normative shift away from comprehensive sanctions" (Biersteker T. J. and S. E. Eckart, A. Halegua, P. Romaniuk 2005:27). Throughout the decade, the UN moved sharply towards more limited measures, targeting elites and particular sectors. International proscription as a policy instrument used by the UNSC was later a product of this process of learning on sanctions and moving towards a more targeted approach – known as smart sanctions.

Multilateral sanctions quickly became a key tool of cooperation on counter-terrorism. Of particular interest in understanding the precursors of proscription are the cases of sanctions against Libya, Sudan and Afghanistan, where the issue addressed was 'support for international terrorism'. In all three cases, the stated purpose was to encourage governments to end their support for 'international terrorism' and to turn over and extradite suspected 'terrorists' (Cortright and Lopez 2000). In the case of Libya, economic sanctions were targeted against the aviation and armament sectors and are often portrayed as a success because Libya ended up handing over the Lockerbie bombing suspects (Cortright and Lopez 2000; Romaniuk 2005; de Jonge Oudraat 2004). In the case of Sudan, only diplomatic sanctions were imposed, though the US had tried to mobilise support for broad trade restrictions. The sanctions appeared to have little effect on Khartoum's policy of hosting 'international terrorists' (Cortright and Lopez 2000; Romaniuk 2005).

In the case of Afghanistan, UN Resolution 1267 imposed aviation and financial sanctions against the Taliban regime. These sanctions were imposed on

persons and entities designated by the sanctions committee by means of a 'blacklist'. This model was to become the basis for international proscription regimes with the two main material features being asset freeze and travel ban against listed entities. Under this mechanism the Security Council adopted a resolution and delegated the task of drawing up a list of blacklisted persons to a sanctions committee consisting of all members of the UNSC (Cameron 2005). The consensus procedure in the sanctions committee meant that once a name is on the list any UNSC member can veto its removal (Cameron 2005). The sanctions committees have often been put in a position of merely rubber-stamping individual states' own blacklists "in particular the US anti-terrorist blacklists" (Cameron 2005: 184). This has been the case in particular with the Taliban list: "the main (or exclusive?) source of the names of the Afghanistan/Al-Qaida lists has been the US" (Cameron 2005: 184, Sullivan and Hayes 2010: 13). The first list of persons and entities subject to the freezing of assets was published by the Sanctions Committee on 8 March 2001, designating 162 individuals and seven entities (Sullivan and Hayes 2010).

The 'sanctions decade' saw an increased willingness of powerful states such as the United States to use multilateralism selectively to advance their counter-terrorism policies. The emphasis was put on norm building over the unacceptability of terrorism and the introduction of blacklisting as an acceptable tool to target in compliant governments. The sanctions regimes of the 1990s "were important in stigmatizing terrorism as an illegitimate activity that needed to be countered through international action" (de Jonge Oudraat 2004: 153). Thus establishing the symbolic de-legitimation that would become central to proscription regimes. Proscription regimes are derived from the learning that was done on broader sanctions, but also the norm building that made it seem an acceptable and useful tool of global foreign policy (Romaniuk 2010).

While the sanctions decade illustrates how the US was able to influence other states to take on their anti-terrorism agenda in a post-Cold War scenario, it very much remained focussed on targeting state actors that were seen as sponsoring terrorism. When it came to non-state armed actors, the picture was rather different. During the Cold War many countries wanted to protect the rights of national liberation movements, and even afterwards there was real ambivalence

about branding certain armed groups as terrorist organisations. That is, until 9/11 happened.

6. 9/11 as a critical juncture²⁷

The 9/11 attack on the World Trade Center was a key turning point for proscription policies around the world. As Booth and Dunne (2002, Preface) eloquently put it, “There are other and arguably more crucial issues in world historical terms (...) but when the victim of terror attacks of spectacular horror happens to be the greatest power on earth, the agenda is set”. The rejection of the attacks was widespread and world leaders across the globe rallied around America to express their solidarity. UK Prime Minister Tony Blair described it as an attack against the world: “This was a declaration of war not just on the United States but all countries and peoples which treasured freedom, democracy and our shared way of life.” (Blair 2011). One direct result of the attacks has been the “*public delegitimation of terrorism*” (Keohane 2002:41 emphasis in the original). Being listed as a ‘terrorist’ organisation took on a whole different meaning post 9/11. Symbolically, being branded a ‘terrorist’ became an anathema.

What followed was a broad coalition against terrorism based on US power but also on the perceived self-interest of other powerful states (Keohane 2002). The US took the opportunity to push its agenda through a multilateral approach, using multilateral fora like the UN as a source of collective legitimisation for its actions, and to push through the first global sanctions against non-state actors. The key result was the passing of UNSC Resolution 1373, a sea change that set proscription regimes against non-state actors at the heart of the multilateral agenda. The unanimous passage of UNSC Resolution 1373 broadened multilateral counter-terrorism on an unprecedented scale as it was passed under Chapter VII, making the provisions mandatory for all UN member states.²⁸

It was also the first time Article 51 on the right of self-defence had been invoked in the context of violence by a non-state actor. This was completely

²⁷ For a critical take on using or constructing 9/11 as a temporal marker see Toros 2017. She argues that this quasi-universal adoption has led to “an extension of US hegemony over world time” (Toros 2017: 206).

²⁸ Making it also mandatory for countries to report on progress in the implementation of the Resolution. A direct side product of this was the creation of the Counter-Terrorism Committee (CTC), and later its reorganized version, the Counter-Terrorism Committee Executive Directorate (CTED) which established a group of UN international civil servants focussed on counter-terrorism and working to “drive the counter-terrorism agenda into the heart of each member state” (Gearty 2013: 33). Before 9/11, the UN mainly had rapporteurs focussing on human rights and fundamental freedoms (Gearty 2013).

different to the sanctions imposed against governments under Chapter VII on the supporters of terrorism in the 1990s (Romaniuk 2005). It had previously been seen as controversial to say that terrorist attacks amounted to an armed attack or to invoke the right to self-defence in that context. The US had for example tried to invoke this right following the Berlin bomb attack when it bombed Tripoli, and Israel responded in similar fashion to attacks from the PLO. But, in the case of 9/11, “few challenged the finding that the September 11 attacks constituted a ‘threat to international peace’ and an ‘armed attack’” (Schrijver 2004:62).

The other striking point about UNSC Resolution 1373 was that no specific reference was made to 9/11, or to attacks against the US. It was the first legally binding Security Council resolution “addressing international terrorism as a global phenomenon without referring to a particular state or region” (Schrijver 2004: 58). UNSC Resolution 1373 “imposed a blanket mandatory sanctions regime on all terrorists” (de Jonge Oudraat 2004: 157). This global proscription regime had two main effects. First, it clearly de-legitimised the use by non-state armed groups of terrorist tactics, meaning that while there had been some flexibility before in terms of how armed groups were perceived either as ‘freedom fighter’ or terrorists’, depending on which side of the Cold War divide they fell, now, symbolically, all would be considered terrorists. Second, as it did not specify persons or entities that should be listed it effectively gave states the right to blacklist at their own discretion to “prevent and suppress the financing of terrorist acts” (UNSC Resolution 1373 2001). Coupled with the absence of a UN definition of what constitutes ‘terrorism’, the decentralised aspect of the regime allows states to identify terrorist suspects in light of their own national interests, and effectively encouraged states to create their own proscription regimes.²⁹ A direct effect of this ‘global’ endorsement of proscription against non-state actors by the UN has been governments’ reframing of their own internal conflicts in the context of the global war on terror.

²⁹ In his first statement, Martin Scheinin, the first United Nations Special Rapporteur on human rights and counter-terrorism, said: “Calls by the international community to combat terrorism, without defining the term, can be understood as leaving it to individual States to define what is meant by the term” (Scheinin 2005, para 27).

II. International proscription regimes post 9/11³⁰

The figure given by de Goede (2011: 499) of 214 blacklists includes a mix of international proscription regimes such as the UN Security Council 1267 Sanctions List and the EU financial sanctions lists, but it also includes proscription regimes developed by individual governments like the US, or the UK. Proscription now exists in countries as varied as “Australia, Belarus, China, Egypt, India, Israel, Jordan, Kyrgyzstan, Macedonia, Malaysia, Russia, Syria, Uzbekistan and Zimbabwe” (Muller 2008: 115) and beyond. Some lists only include individuals, others include whole groups, and some include both. They can also include the military wings of armed groups, the political wings, or both. In all this complexity it is important to briefly understand what is entailed by some of the main international proscription regimes and explore their similarities and differences.

This thesis is aimed at understanding the effects of proscription regimes that are targeted towards armed groups, not individuals, so this will be the focus of this section. As we saw in the historical background, proscription regimes first emerged in Western Europe, particularly in Britain, and it was after the United States got the idea embedded through the United Nations post-9/11 that they spread internationally. So, this section will focus on the main regimes, namely the United States, the United Nations, the European Union and the United Kingdom.

1. United States

In the US there are two main lists. The US Department of Treasury’s Office of Foreign Assets Control (OFAC) has a list of Specially Designated and Blocked Persons, which includes individuals, groups, and entities, considered to be terrorists, narcotics traffickers or acting for or on behalf of a sanctions targeted country (OFAC, 2012). The US State Department has a specific list of Foreign Terrorist Organisations, which is the one I will focus on as it designates non-US based organisations as terrorist organisations. The US list includes sixty-four prominent non-state armed groups such as Al Qaeda, Hamas, Hezbollah, the CPP/NPA, Al Shabab, the PKK, ELN, FARC and the LTTE (US Department of State).

³⁰ Certain parts of this section have been published in Haspeslagh, S. 2013. “Listing terrorists”: The Impact of Proscription on Third-Party Efforts to Engage Armed Groups in Peace Processes – a Practitioner’s Perspective’, *Critical Studies on Terrorism* 6 (1): 189-208.

Individuals and groups who are considered to belong to these groups are subject to asset freeze and travel bans. Furthermore, it is unlawful for a person in the US or subject to US jurisdiction to knowingly provide "material support or resources" to a listed organisation. Material support is defined as: "currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe-houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials" (US Patriot Act, 2001).

In June 2010 the Supreme Court, in a ruling known as the 'Holder v Humanitarian Law Project' case, clarified that certain activities directly relevant to the support of peace processes are considered as material support to listed entities. It was made explicitly illegal to provide "expert advice", "service" or "training in human rights enforcement or peaceful conflict resolution" to armed groups that are listed as foreign terrorist organisations (US Supreme Court, 2010):

Though it is important to note that the ruling was very narrow and does not address all forms of peaceful speech and advocacy, the Court's rationale suggests that it would uphold criminalization of most actions intended to engage armed groups in peace processes. For example, the Court considered training that imparted a "specific skill" to these groups "frees-up" other resources that a group could then put to "violent ends". The Court emphasized that such actions require "coordination". They also considered that engagement provides these groups with "legitimacy" and would put a strain on US foreign policy. (Carl and Haspeslagh 2010)

As the US law is extra-territorial it also applies to non-Americans. The only loophole is that third party actors like US State Department staff, US embassy staff or NGOs can apply for waivers at the State Department before engaging with groups. This is known as an OFAC license. This OFAC license allows them to interact with designated armed groups, subject to limitations or conditions stated in the license.

2. United Nations

There are three types of proscription regimes at the United Nations level. The first is the list established by UN Security Council Resolutions 1267, 1988 and 1989 in relation to the Taliban and Al Qaeda. Secondly there are other UN Security

Council resolutions imposing sanctions on armed groups in specific conflicts. One example is the case of Somalia, in relation to which the UN has had a tailored sanction regime since 2002 – further tightened in 2011 to include specific individuals and entities identified as threats to peace and security (UN Security Council SC/10348, 2011). Thirdly, UN Security Council Resolutions 1373, 1540 and 1624, require states to take various steps against non-state armed groups, including criminalising terrorism.

As we saw above, Resolution 1373, which was passed after 9/11, is the core document in the UN's counter-terrorism regime (UN Security Council SC/7158, 2001). UN member states both enforce those lists and add to them through their own national regimes. The resolution calls on all states to freeze assets, ban travel and have an arms embargo against listed individuals and groups.

3. European Union

The EU's proscription regime stems directly from measures it took to transpose UN Resolutions 1267 and 1373 into EU law. Common Position 2002/402/CFSP and EC Regulation 881/2002 led the EU to directly implement UN Resolutions 1267, 1333 and 1390 and the Taliban and Al Qaeda list. In addition, based on UN Resolution 1373, the EU decided to also establish an autonomous list of terrorist entities through Common Position 2001/931/CFSP and EC Regulation 2580/2001. The EU list comprises of two sub-lists: one for groups operating within the EU, and one for groups operating outside the EU in non-member state countries. There are twenty-one designated groups on the EU external list such as Hamas' armed wing, CPP/NPA, PKK, LTTE, ELN and FARC³¹ (European Council 2017). Members of these groups are subject to travel bans, visa denials, asset freezes and other financial restrictions, and arms embargoes (European Council 2017).

As the EU is not a member of the UN it is not subject to UNSC Resolutions from the standpoint of international law, so the EU was not legally required to adopt measures in order to develop its own proscription regime. Leonard and Kaunert (2012) argue that we should understand the EU's decision in the context of the bloc's general preference for multilateralism when it comes to international security issues. Moreover, de Goede (2012) argued that the EU prioritised the

³¹ On 13 November 2017, a year after the peace agreement was signed between the Colombian government and the FARC, the armed group was removed from the European list, European Council Decisions (CFSP) 2017/2072 and (CFSP) 2017/2073.

pursuit of assets because it saw it as the less violent alternative to other counter-terrorism strategies.

Unlike the UN and other multilateral fora, the European Council did develop a common definition of terrorism, through its Framework Decision on Combating Terrorism published on 13 June 2002 (2002)/475/JHA). Reminiscent of the anti-anarchist Convention of the late nineteenth Century, these efforts to establish a common legal definition of terrorism have also been seen as an attempt by member states to eliminate the ‘political offences’ exception in relation to ‘terrorism’. This had been coupled with measures to exclude ‘terrorists’ from asylum and refugee protection (Muller 2008). This is a notable departure from the period in the mid-1990s when, following a wave of attacks in France in 1995 and 1996 by the Armed Islamic Group of Algeria (GIA), the UK and Sweden had refused to extradite suspects of the attacks (Shapiro 2007). The common definition of terrorism and the agreement on removing the political offences exception have rendered this impossible as Member States now automatically recognize each other’s judicial decisions.

The EU legislation requires member states to prevent ‘the public’ from offering support to individuals and entities listed as terrorists. In practice this means that all Member States have had to introduce their own national criminal regimes for the breach of EU blacklisting provisions (Sullivan and Hayes 2010). France is an interesting case in this regard. It had been one of the countries most affected by both national and international terrorist attacks in the 1980s and 1990s, but had never developed a proscription regime, choosing instead to focus on police, intelligence, foreign policy and judicial mechanisms to combat terrorism (Shapiro and Suzan 2003). Following the EU’s Common Position 2001/931/CFSP and the establishment of the EU’s own autonomous list, France now has to implement this common policy and enforce decisions on all the parties concerned, and on its citizens.

4. United Kingdom

Today, in the UK the basis for the proscription regime is the Terrorist Act of 2000. Seventy-four armed groups are proscribed as ‘international terrorist organisations’ under this act, such as Al Qaeda, Al Shabab, the PKK, ETA, the LTTE, Hamas and Hezbollah’s military wing (Home Office 2017).

The Terrorism Act subjects listed organisations to asset freezes and travel bans. It also criminalises membership of a ‘foreign terrorist group’. Activities such as inciting support for such a group, or wearing clothing or displaying articles that could arouse suspicion of being a member or a supporter can incur penalties of up to ten years in prison (Terrorism Act 2000). Moreover, arranging or assisting in organising a meeting with members of proscribed groups is a criminal offence, unless this activity is considered to be “genuinely benign” (Parliament of the United Kingdom, 2000, Annex of 2000 Terrorism Act). This terminology “genuinely benign” caused some confusion. As a result of engagement by UK peacebuilding and humanitarian charities, and contra *Holder v HLP*, the Government clarified that such meetings are those “at which the terrorist activities of the group are not promoted or encouraged, for example, a meeting designed to encourage a designated group to engage in a peace process.” (Dumasy and Haspeslagh 2016; Home Office 2015).

5. Commonalities and differences

The cornerstones of these regimes worldwide are to criminalise membership of listed groups and imposing administrative and legal sanctions that will disrupt groups’ activities. This can be done through material provisions such as restricting their freedom of movement, access to weapons and fund-raising capacity through travel ban, arms embargoes and asset freezes. Another more symbolic objective, is to stigmatise and isolate the group by narrowing support for it. The US State Department (2012) lists as among the “effects of designation” the fact that it “stigmatizes and isolates designated terrorist organizations internationally (...); heightens public awareness and knowledge of terrorist organizations; signals to other governments our concern about named organizations”. These material and symbolic objectives of proscription will be further investigated and assessed in the theoretical framework.

In all these legal regimes, the power of proscription by the executive is discretionary. In the UK and the US, for example, the Foreign Secretary or the Secretary of State is not required to proscribe an organization just because it meets the statutory conditions. The decision made on whom to include on a list of terrorist organisations is a political one. It has “more to do with geo-politics and diplomatic relations between states than with genuine threats to a particular

country's national security and the strict application of law in relation to terrorism" (Muller 2008: 125).

These lists include a wide variety of groups with different objectives and methods, from the trans-national Al-Qaeda, to local outfits such as Colombia's FARC, who have signed a peace agreement, to dozens of almost unknown leftist and anarchist groups in Greece and Italy. Groups included differ notably from list to list. Hezbollah is a good example of these discrepancies. The whole group is listed by the US but only its military wing is listed by the UK, whilst the EU has only very recently listed its military wing despite repeated earlier statements that they had no intention of doing so.

Delisting procedures also vary greatly. The UN lists appear to be the most flexible, as illustrated by the separation of the Al Qaeda and Taliban list in June 2011 into two separate lists: 1) UN Resolution 1989 for Al Qaeda and 2) UN Resolution 1988 for the Taliban. At the same time, 14 Taliban members were removed from the list. At the European Union level listed groups can now submit a request to the European Council at any time, asking for their designation to be reconsidered. However, delisting still requires unanimity among the 27 member states (Haspesslagh and Dudouet 2011).

There are also discrepancies on the question of whether to explicitly criminalise third party engagement with listed groups. The US proscription regime is currently the one that most explicitly criminalises engagement of third party actors. The UN and EU proscription regimes, on the other hand, do not explicitly address this issue. In closed doors seminars, UN and EU diplomats say there have been situations where, even though engagement with listed groups is not made illegal per se, they chose not to engage with a listed organisation (UN report unpublished; Haspesslagh and Dudouet 2011). It is also important to bear in mind that a number of governments, such as Australia, Canada, the UK and the US insert specific counter-terrorism clauses in all levels of development funding agreements to ensure that partners do not provide direct support to listed organisations.

Conclusion

This chapter helped re-contextualise and provide the historical background for international proscription. The chapter explored how the precedent of states dealing with anarchic violence at the turn of the 20th century started establishing the idea that violence by these non-state actors should be considered non-political and therefore extraditable. Similarly, in European countries dealing with nationalist and secessionist struggles during the 1970s and 1980s, national proscription legislation started to emerge as well as cooperation between European countries. The bedrock of this cooperation was also to exclude the political defence vis-à-vis extradition requests when it came to terrorist offenses. So, even though the political aim or intent lies very much at the heart of the definition of terrorism itself, as we saw in chapter 1, the precursors to proscription were very much based on the idea that groups using terrorist tactics should not be considered to be engaging in political acts and should instead be considered criminal. This would become a central plank of the symbolic aspect of proscription.

In contrast, during the national liberation movements, a multiplicity of perspectives on armed movements was able to thrive thanks to the fact that the rights of these groups were enshrined in the 1960 UN General Assembly Declaration. A number of countries were very much against the idea of labelling armed groups as ‘terrorists’. The Reagan administration later succeeded in somewhat shifting the rhetoric embedding a certain understanding of freedom fighters versus terrorists depending on which side of the Cold War divide an armed group was situated. But this labelling did not translate into multilateral action or proscription regimes because of the Cold War dynamics.

After the Cold War ended, the US’ ability to dominate the global agenda led to the emergence of sanctions regimes in the 1990s that established the tool of targeted sanctions, the precursor to international proscription regimes. The stigmatizing of terrorism as illegitimate set the stage for the norm building which made sanctions and blacklisting seen as an acceptable tool of foreign policy. But this was still a tool focussed essentially on states (supporters of terrorism), not armed groups. The main shift towards armed groups took place after 9/11. That is why it is crucial to understand 9/11 as the turning point when proscription against armed groups became deeply embedded in the international system through UN SC Resolution 1373. This is important when it comes to how we study

proscription because it means 9/11 should also be considered a critical juncture for the analysis of the phenomenon as well.

Today international proscription is widespread, and while this chapter showed that regimes vary in terms of who they list, how easy it is to be taken off the lists, and whether third party actors are allowed to be in contact with listed entities, it also illustrated that they share key characteristics. These shared material and symbolic objectives of proscription will form the basis of the analytical framework to explore *how* the listing of armed groups as ‘terrorists’ might affect the process through which conflict parties get to the negotiation table. This is what the next chapter turns to.

Chapter Four

An Analytical Framework

Introduction

The naming and labelling of opponents has been a hallmark of armed conflicts worldwide. But, as Chapter 3 made apparent, following 9/11, the development of international proscription regimes has solidified the judgement that a whole class of armed groups should be understood as ‘terrorists’. Little is known about the effects of these international proscription regimes. The purpose of this chapter is to explore how we should study them. It proposes an analytical framework to explore why and how international proscription affects the process of getting to the negotiation table. Though the chapter draws on elements of the sanctions, critical terrorism, securitisation, constructivism and labelling literature to understand the possible effects of proscription, it is anchored in the peace and conflict literature to assess how these effects might influence the inception of peace negotiations both in terms of the central processes at play and the main actors involved.

The nascent literature on the impact of proscription on peace processes has so far concluded that it has had significant negative effects. Not only has it disabled possible roles played by third party actors, such as understanding armed groups or influencing their strategic calculations, it appears to have led to increased isolation and cases of severe miscalculation on the part of the armed groups themselves. It has also attached a stigma on whole socio-political communities associated with listed groups and appears to have fundamentally shifted the type of peacebuilding work deemed possible. But as Chapter 2 argued, this literature has not so far produced a systematic analysis of the effects of proscription on peace processes. It has been mainly focussed on the role of third party actors be it inter-governmental actors, mediators, international or local peacebuilding NGOs and only to a much lesser degree looked at the effects on the armed groups themselves. It has not looked at the effects on the government or on the dynamics between different actors. It is only by developing an analytical framework that takes into consideration the different actors involved, the

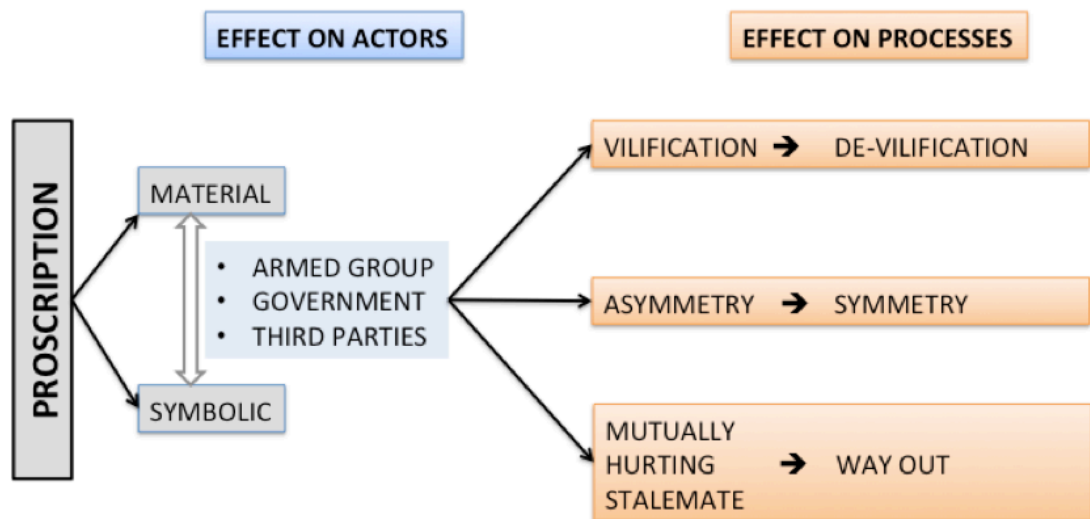
dynamics between them and the main processes at play in pre-negotiations that a systematic and thorough analysis can be made.

The chapter is structured in two main parts. First, it looks at international proscription and develops an understanding of how to assess its effects. It then explores their main characteristics and develops a model to study them based on their material and symbolic effects on the main actors involved. The chapter then turns to assessing how these effects influence the three central dynamics of pre-negotiation: the passage from vilification to de-vilification, the move from asymmetry to creating a sense of symmetry and the emergence of ripeness. Taking each dynamic in turn, the chapter engages with the existing literature critically and adds to the concepts by developing new ones and honing in on the possible effects of proscription. One central idea developed in this chapter, which cuts across the thesis as a whole, is the ‘linguistic ceasefire’. It helps us explain how parties are able to initiate negotiations even in the context of proscription.

I. Proscription: how to study it?

As Chapter 2 noted, though there are variations amongst proscription regimes and some are more stringent than others it is important to bear in mind that when armed groups are listed they tend to be listed by multiple actors. It would be somewhat meaningless to try and separate the effects of the particular listings as if they operate in isolation. I agree with Hayes et al. (2015: 7) that listings need to be “analysed *in relation* to each other rather than in isolation as distinct jurisdictions”. Similar to overlapping circles, each proscription regime brings with it different consequences some of which intersect and some do not, but they reinforce each other materially and symbolically. Our first task is to explore these material and symbolic effects of proscription and assess how they will influence the main actors involved, namely the government, the armed group and third parties. Our second task is to identify the key processes at play during pre-negotiations and see how these dynamics are influenced by proscription. Doing this, a framework to study the effects of international proscription on pre-negotiation starts to emerge (See diagram 1.)

Diagram 1. How to study the effects of proscription on pre-negotiations



1. Material effects

It is important to recall that the difference between labelling a group ‘terrorist’ and proscribing a group as a terrorist organisation leads to a number of direct practical and legal consequences and thus material effects. The sanctions literature points out the role that sanctions play in ‘constraining’ their targets (Biersteker, Eckert, Tourinho et al 2013). Applying this to proscription regimes entails denying armed groups access to needed resources and cutting off their means of waging war. Asset-freeze and travel bans are the two practical keystones of international proscription regimes. Because this is a one-sided dynamic, of the sanction’s ‘sender’ towards the target, this section will focus on the material effects on the target, in this case, the proscribed armed group.

i. Asset-freeze

Proscription regimes are aimed at preventing the financing of listed groups. As Eckert (2008:103) put it, financial sanctions are ostensibly “aimed at denying targets access to the international financial system”. The European Union for example states that "no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of" listed groups (European Council 2001). Assets of listed organisations and individuals are frozen and it is illegal to transfer funds to a listed entity so this could have a direct effect on their ‘fund-raising’ ability.

Have they been effective? There is little data on the freezing of assets, but the figures that do exist show the impact to be rather small. De Goede (2012) who explores the securitization of terrorist finance concludes that the freezing of assets are widely acknowledged to have been minimal. On the US legislation following 9/11, Pillar said that results have been meagre “no assets having been frozen under the new legislation, and few prosecutions” (Pillar 2003: 151). According to US State Department, by January 2005, US\$147 million of asset had been frozen worldwide, but the most significant part of this amount was attributed to the Taliban and has since been returned to the Afghan government (cited in Biersteker, Eckert and Romaniuk 2008: 245). Exploring the impact on Islamic Charities, Gunning showed that even though a dozen had been under intense scrutiny for alleged ties with listed groups, the number of charities who actually provided funding to Hamas or Al Qaeda was relatively small (Gunning 2008: 111).

As noted in Chapter 2, the sanctions literature has mainly focussed on the impact of financial sanctions on state actors and little attention has been paid to non-state actors. But some of the findings of this literature are relevant here. For asset-freeze to have a chance of success in the case of sanctions against states, Elliott (2005) argues that the targeted regime leaders must hold assets abroad, the assets must be identifiable and that the assets must form a large enough proportion of targeted individual assets. He also points out that if “targeted leadership can replenish their assets through additional theft and corruption then asset freeze may have little impact” (Elliott 2005:12). Extrapolating this thinking to the case of armed groups, the argument can be made that financial sanctions against armed groups will have an impact on the group if they depend on resources in the international financial market.

Proscription can disrupt the activities of an armed group, for example, by limiting its ability to fund-raise or by disrupting potential supportive links the group has with states (Chatham House 2010) or diaspora communities. So, for instance, the LTTE, the IRA and the PKK are generally seen as examples of armed groups that have been heavily dependent on raising funds through their

diaspora.³² As a consequence they have depended on international money transfers, unlike armed groups such as the FARC, for example, who's funding has come from domestic sources such as war tax, kidnapping or tax levied on drug production as we saw in Chapter 1.

Two other points to highlight on funding are the armed groups' possible alternative funding sources and how much money they actually need to operate. De Jonge Oudraat (2004:153) argued that "sanctions regimes have little effect on non-state terrorist actors" because their funding is increasingly diversified and hence more difficult to control. So the ability of an armed group to diversify or switch its sources of funding should also be considered. Margaret Doxey (2007), the doyenne of the sanctions literature, pointed out that terrorist attacks do not cost much money. She estimated the cost of organising the Madrid bombing in 2004 was a mere US\$10,000. Whether or not listed armed groups necessarily launch terrorist attacks is not the focus of our discussion, but this point illustrates that depending on their *modus operandi*, different armed groups will have different financial needs. Some groups such as the FARC aim to finance seven regional armed blocs that each have five to fifteen fronts which is considerable, whereas a group like the Lord's Resistance Army for example needs far less money to operate. To be effective, policies would need to be tailored to individual circumstances but proscription regimes "stresses uniformity rather than variation" (Pillar 2003: 150).

ii. Travel bans

All proscription regimes impose travel restrictions for listed entities. The sanctions literature seems to reach the conclusion that in material terms, travel bans have a mixed record, as there are many instances of violation or evasion (Cosgove 2005). The extent to which these bans are implemented worldwide is hard to judge but the point is that these bans make it harder for armed groups to travel as members of these groups are physically unable to visit certain countries whether it is because they cannot get on a plane (because they are on a no-fly list) or cannot enter a country (because of a visa ban). Armed groups vary in terms of how important travelling is in their operational necessities. So, for instance,

³² The case of the IRA funding is generally used to show how diaspora money has supported armed groups. What is less often highlighted is the role played by the Irish-American diaspora in encouraging Sinn Féin into negotiations and the IRA towards a ceasefire (Darby and Mac Ginty 2000, Cochrane 2007).

transnational groups such as Al-Qaeda, that plan attacks in multiple countries might be more affected by these restrictions than armed groups with a more national agenda.

But even groups with a more national agenda can be affected by the travel ban when it comes to meetings with foreign sponsors or attending peace talks. Two examples of this are the impossibility of the LTTE representatives traveling to the USA for a meeting on development aid which has been described by some as an important missed opportunity in the peace process (Philipson 2005) and the counter-example of the case of the United States overriding the ban on visas for Gerry Adams which has been described as an important building block towards an IRA ceasefire and the Good Friday Agreement (Spector 1999, Cochrane 2007).

In material terms, it appears that travel bans have been relatively insignificant. But authors have highlighted their symbolic dimension. Cortright and Lopez (2000:244) argued that they could be a potent “psychological tool for isolating and denying legitimacy to targeted individuals and groups”. Cosgove (2005) for instance highlights the case of Liberia where the travel ban is thought to have created stigma for certain individuals. Similarly, Elliott (2005:11) argued, that “targeted travel and transportation sanctions are likely to be useful primarily as symbolic or punitive measures”. This leads us to consider the other symbolic effects of proscription.

2. Symbolic effects

As noted in Chapter 2, recent sanctions literature comes to the conclusion that the main impact of sanctions is actually symbolic (Biersteker, Eckert, Tourinho et al 2013). Similarly, de Goede’s work on the securitization of terrorist finance also discusses “the highly symbolic nature of blacklisting as a modern political practice”(de Goede 2012: 157). Her argument that listing has to be understood as “*societal exclusion* and *symbolic banishment* of the affected persons” is highly relevant to understand the possible effect on armed groups. Though her work is focussed on individuals it can be extrapolated to the whole group. The symbolic effect of proscription can lead to stigma, to the shame and the exclusion of the targeted entity.

But this is not a by-product; it appears to be part and parcel of the proscription strategy. Pillar (2003) reflecting on the US proscription regime argued:

Probably the greatest advantages are the symbolic ones of calling attention to terrorist groups as objects worthy of opprobrium, putting the United States formally on record as opposing their terrorist activities, making it clear that the United States is closely monitoring and assessing those activities, and sustaining attention to counterterrorism in general. (Pillar 2003:152)

Similarly, James R. Clapper, U.S. Director of National Intelligence during the administration of President Barack Obama from 2010–2017, said the symbolic value of proscription as a policy instrument was paramount: “Well, for me it [the FTO list] had a much more symbolic than intrinsic value.(...) I think it had much more to do with calling out these groups, that if a group made the U.S. terrorist list, that this was a bad group. I think there was important symbolism, both domestically and internationally, to listing terrorist groups.” (quoted in Legrand 2018: 363)

Along the same lines, the UN Working Group on Terrorism states, “labeling opponents and adversaries as terrorists offers a time-tested technique to de-legitimize and demonize them” (quoted in Toros 2008: 412). The issue of legitimacy is central here.³³ Through international proscription, the state wins the stamp of approval and the listed armed group loses legitimacy (Helgesen 2007). Martha Crenshaw (1983) had long argued that legitimacy is central to the analysis of terrorism. The state defends its legitimacy by de-legitimising the ‘terrorist’ challenger (Crenshaw 1983). The understanding is that the armed group forsakes its legitimacy by using terrorist tactics. As Liz Philipson (2005) pointed out, it is the idea that those who practice terrorism lose any right to their cause being heard. It is a “means of condemning forms of violence seen as illegitimate or immoral.” (Jackson et al. 2011:103)

International proscription will also affect the overarching conflict narrative; the way the conflict is understood and framed. The ‘terrorist’ label allows for a country’s problems to be framed as “an attack by terrorists on a legitimate

³³ For an in-depth review of the issue of legitimacy in the context of talking to ‘terrorists’ see Toros (2008).

democracy” (McCartney 2006:10). This will affect the way the conflict is described, how the root causes are understood and whether or not the presence of the armed conflict is even acknowledged. In the UK for example, the war in Northern Ireland was euphemistically described as ‘The Troubles’ and in Colombia, under President Uribe, the conflict was described as a ‘war against narco-terrorists’. By choosing one form of label, you automatically exclude another: “whenever we use language to understand a process or event, we *necessarily* exclude alternative language – and thus alternative understandings – of the same occurrence” (Jackson et al. 2011:113).

This framing has much to do with who shapes the meta-narrative. As Jabri noted, “Singular subjectivities and monolithic identities are, however, always constructed through hegemonic discourses which contributes to a dominant form of identity” (Jabri 1996: 183). At an international level, Keen (2008:221) pointed out that by labelling conflict and extreme violence as ‘evil’ or ‘other’ or ‘terrorist’ it allows us (the West) “to escape our own responsibilities in unfolding processes of violence.” But, more importantly for this study, proscribing an armed group crystallises a judgment that one side in the conflict should be considered a ‘terrorist’; this becomes embedded in the meta-narrative and shapes the understanding of the conflict.

Moreover, the inclusion of names of armed groups side by side on the same list can have deep symbolic significance. This homogeneity creates a new reality, which also has material effects. As de Goede and Sullivan (2015:69) argued in their exploration of security lists³⁴, “list as a knowledge form has the capacity to *do things*”. So, lists are *productive* in that they “assemble elements that that do not necessarily fit together into some larger scheme.” (Law and Mol 2002: 7, quoted in de Goede and Sullivan 2016). Lists are also productive in that it becomes far easier to treat them in a way that would otherwise be deemed unacceptable (Jackson et al. 2011):

The contemporary understanding of terrorists as inherently evil, for example, functions to legitimize particular forms of counter-terrorist response at the same time as it delegitimizes others. Once someone is labeled an evil-doer and depicted as lacking an identifiable political agenda, reasoning or negotiating with them becomes taboo: instead,

³⁴ They look at a range of lists, including: targeted sanctions blacklists, private risk management databases and counterterrorism watch lists.

they need to be pursued aggressively and quickly. (Jackson et al. 2011:114)

So, the framing of an armed group as a terrorist is deeply symbolic, but can also have direct material consequences in terms of the war being fought against them. As Vivienne Jabri eloquently put it in her book on *Discourses on Violence*:

What would previously have been blurred social boundaries become sharpened primarily through a discursive focus upon features, both symbolic and material, which divide communities to the extent that the desire for destruction of the enemy is perceived to be the only legitimate or honourable course to follow. (Jabri 1996:5)

Similarly, it can also have material effects on the type of peace pursued with the listed group. Much of the literature on labelling and peace processes concluded that the ‘terrorist’ label “automatically excludes the possibility of engagement”, therefore policies that require engagement such as negotiation and reconciliation fall outside of the options that are considered (Renner and Spencer 2012:7). Moreover, Lanz (2011:284) in his analysis of factors of exclusion and inclusion in negotiation processes concludes that the terrorist label “excludes such groups from international negotiations based on the belief that negotiations would generate goodwill for alleged terrorists”.

So, in effect if you choose to negotiate with a group listed as a ‘terrorist’ you would legitimize them and thus incite more violence and “weaken the democratic quality of states and likely only serve to incite more violence.” (Toros 2008: 408). Here again we see that the symbolic effects are not merely symbolic but also productive and appear to have material implications. Both the material and symbolic effects of proscription reinforce each other. They thus need to be analysed in interaction.

To understand how the material and the symbolic interact the best place to look is the actors themselves. It is widely understood that protracted armed conflicts are complex and dynamic: “The rules and expectations governing relations between the parties shift, and along with them the range of possible and solving outcomes” (Zartman 1995:12). This chapter turns to developing a better understanding of the two main protagonists: governments and armed groups

before turning its attention to third party actors. For each actor the possible material and symbolic effects of proscription will be sketched out by mainly drawing on the broad peace and conflict literature. This is followed by an analysis of the effects on the peace process focusing in particular on the pre-negotiation phase.

3. Actors

i. Armed groups

In the peace and conflict literature, the most relevant strand of scholarly work focussing on armed groups comes out of the study of political violence (Kalyvas 2006, Weinstein 2007, Mamphilly 2011, Staniland 2014, Arjona 2017), particularly, the recent strand of work that highlights the *internal* dynamics of armed groups (Pearlman 2010; Pearlman and Cunningham 2012; Brenner *Forthcoming*; McLoughlin and Pearlman 2011; Gallagher Cunningham, Bakke and Seymour 2012; Berti 2013; Cunningham 2014). Though this work focuses on understanding strategies of violence and non-violence and not necessarily on decisions to enter into negotiations per se, it is useful to tease out the possible effects of proscription on armed groups. There are two key points that come out of this literature that are worth highlighting in particular. First is the huge diversity when it comes to armed groups. They vary in type, nature, structure, hierarchy, modus operandi and relationship to their ‘constituency’. As Staniland incisively put it, there are “dramatic differences” even between armed groups that are fighting the same state with regards to their strategies, capabilities and social bases (Staniland 2014: 4). These differences, Pearlman and Cunningham (2012:7) argued need to be taken into consideration “in determining how opportunity and incentives for violence are created and maintained”. So, we should expect the material and symbolic effects of proscription might vary considerably depending on the ‘type’ of armed group.

We have already seen from the sanctions literature how, particularly in material terms, armed groups might be impacted differently based on how they are funded and by whom, how they operate and the extent to which they travel. So, a group that has bank accounts abroad, depends on diaspora support or has offices/representations in different countries might be more significantly impacted. However there is much less that is understood or written about the

symbolic effect of proscription or how armed groups might react to the label. One author who has explored how stigmatization works in world politics is Rebecca Adler-Nissen (2014). Though her work focused on state actors and norm development, it can be applied to armed groups. She argued that states that are stigmatized should not be seen as mere passive recipients of these labels. She said:

[S]tates that are unable or unwilling to conform to “normal” standards are not merely objects of failed socialization. Rather, they are active agents, able to cope strategically with the shame they are subjected to and, in some cases, may even challenge a dominant moral discourse by wearing their stigma as a badge of honor. (Adler-Nissen 2014:145).

Adler-Nissen (2014) developed a typology of coping strategies: stigma recognition, stigma rejection, and counter-stigmatisation. This diversity in reaction to a stigmatizing label can be envisaged in the case of proscription as well. While some armed groups have tried to explicitly reject the label imposed on them others have embraced it. The LTTE in Sri Lanka and the Maoists in Nepal for example made de-listing a specific pre-requisite for entering into peace talks with the government. Whereas, armed groups like Al-Shabab or Hamas used the labelling strategically to raise their status within their constituency and enhance their perceived victimhood (Haspeslagh and Dudouet 2011). Similarly, in the first broadcast interview by a member of Jabhat al-Nusra's leadership in Syria following the group's proscription by the US, he said "When the US placed us on their list of terrorists, it did us no harm, it elevated our reputation. The Syrian people hate the American government. Thanks be to God, we consider this a medal of honour." (quoted in Wood 2013).

So, proscription will sometimes be seen as an affront, a badge of honour, sometimes as a bargaining chip. The important point to highlight here is that labelling is a two way process. Going back to Adler-Nilsen's point that stigmatised agents are also active agents and able to cope strategically with this stigma, these differences amongst armed groups will lead to different reactions towards proscription. Depending on who is doing the listing and their relationship to them, but also how the listing will affect its own community or relationship towards them.

Second, as well as there being a large variety *between* armed groups it is also important to note that there is also a huge diversity *within* armed groups. This raises an important point of armed group cohesion which is often assumed in the peace and conflict literature as being central to military struggle but also to conflict resolution efforts. This internal diversity has been put at the core of an exciting new research agenda on intrastate conflicts which treats the coherence of armed groups as a research questions as apposed to a given. Wendy Pearlman (2010) has been at the forefront of this research agenda by asking “precisely *who* within a movement does the choosing and how their choices influence those others within their own community.” (Pearlman 2010: 198) Her ‘composite-actor’ approach, differentiated between elites, aspirants and masses in armed movements. The choices made are seen as an evolving social process where others influence the choices made.

Internal debate is central to this process. In an analysis done by armed groups themselves on their own transition from violence to non-violence they shared that “Internal consultation and debate that preceded, accompanies or follows back-channel and formal negotiations play a major role in influencing the move from militancy to negotiated transitions” (Dudouet and Planta 2012:246). The internal debate is described or thought of as a fight between hardliners and softliners or ‘hawks’ and ‘doves’ in the peace and conflict literature. The point is often made that isolating mechanisms, such as proscription, will strengthen hardliners and sideline moderates. But, in fact, individuals will not always be a ‘hawk’ or a ‘dove’, they can shift their stance based on an assessment of their alternatives. So, rather than having fixed individual preferences, it is more helpful to think of it as a shift in the “the balance of arguments at any one time” which “favours the analysis of one or other group within the movement” (McCartney 2005). McLauchlin and Pearlman (2011:42) thought of a movement as a “‘institutional equilibrium’” among actors: “Any movement has an institutional equilibrium constituted by the rules and relationships that distribute power and resources among its members. Intensification of state pressures can disrupt this equilibrium.” (McLauchlin and Pearlman 2011: 42). So, any external factors, such as proscription, would have a significant influence on the credibility of any set of arguments or ‘institutional equilibrium’ at a given time. Proscription as a type of

sanction will affect this internal-external dynamic of armed groups and can distort the motivations for engagement with adversary (Conciliation Resources 2008).

ii. Government

Much of the traditional literature on dealing with terrorism envisions engagement as “a means to transform the ‘terrorists’ so it either rejects or ignores the possibility of transformation of state actors” (Toros 2012:176). Critical terrorism work and conflict and peace literature give more space to the possibility of state transformation. Yet it is somewhat surprising that though states are not treated as coherent entities when it comes to looking at inter-state conflicts, see for example the work of Putnam (1988) or Allison (1969), they are often assumed to be when it comes to intra-state conflicts. Similarly to the approach taken to understand armed groups, this thesis explores the diversity *within* state actors as well.

The state should not be seen as a monolith, agencies and individuals within governments are bound to disagree over strategies to follow in relations to armed groups. Departments might be affected differently by the international proscription of a group. For example the military and security apparatus might be bolstered by the listing both in material terms (military aid) and symbolic terms (increased status and importance) which might lead to the army being either supportive or un-supportive of the government’s strategy. Pecastaing (2011) argued that there is a risk that the army or counter-terrorism personnel may feel betrayed by a possible reversal in strategy if the government decides to enter in negotiations with an armed group. Pecastaing illustrated this point by giving the example of the assassination attempt against President Charles De Gaulle of France in 1961 by a lieutenant colonel as he started negotiating with the Algerian FLN (Pecastaing 2011).

Another point to note, which is a direct side-effect of the ‘terrorist’ label and the establishment of a no-negotiation stance over time, is that it can build-up resistance within the state’s constituents which would limit the state’s freedom of action (Hicks 1991, Pecastaing 2011). A government is answerable to its constituency i.e. its citizens who elected it. It is important to bear in mind that central to the nature of terrorism and terrorism labelling is the public. As the British government’s definition of terrorism states, terrorism involves “any use of violence for the purpose of putting the *public* or any section of the *public* in fear”

(quoted in Gearty 2008: 430, emphasis added). The public can play an important role in terms of putting the government in a policy straightjacket, as it might not understand a sudden U-turn in policy. International listings will reinforce this trend and entrench an understanding of the armed group and the communities associated with it as un-engageable. This will also affect the space for manoeuvre the government has at an international level putting the government in a difficult position if they want to reverse their policy.

iii. Third Parties

Literature on third parties has shown that it has been more usual for adversaries to find themselves in need of assistance of a third party as a ‘go-between’, mediator or facilitator, to start, conduct and conclude a peace process (Mitchell 2008). Because the conflict parties are entrenched in their views, the role of third parties is seen as particularly crucial during the preliminary phase of a peace process (Darby and Mac Ginty 2000). Scholars in general have acknowledged that there is a plethora of third party actors and approaches that can have a high degree of complementarity for different tracks and stages of peace processes (Fisher and Keashly 1996). As Fisher and Keashly’s “contingency model” suggests, “different interventions will be appropriate at different stages of the conflict” (Keashly and Fisher 2008:240). Various typologies of third-party roles have been offered in the literature; Christopher Mitchell (2011) for instance identified thirteen ‘enabler’ roles by ‘agents of (resolutionary) change’.

In the case of armed actors listed as terrorists, “Intermediaries are necessary as a first step toward communication – and often even as the last step of negotiation, behind the public view of strident statements” (Zartman and Faure 2011c: 278). Going through a third party allows the government to deny contact if it becomes public or politically costly. Back channels carried out by NGOs are frequent as they give governments a level of protection by the “shield of deniability” (Donohue and Cristal 2011:75). Diplomatic actors (government officials, UN and EU actors) work with a range of non-state actors as important partners in engaging with armed groups (Hottinger 2005). But, as Papagianni (2012) pointed out, because these activities are often confidential, it is hard to be precise and to quantify them.

Third party actors also often play roles training and educating armed actors. Negotiation skills can be an important element in the establishment and pursuit of effective negotiations between belligerents. Training armed groups in negotiation strategies can be an important factor in making negotiations ultimately effective (Hayson 2005), but it can also play a part in encouraging armed groups to pursue a political rather than violent strategy. Third parties can help ‘de-commit’ conflict parties from the violent path they are on (Barnes and Griffiths 2008). Parties become entrapped because they have made such enormous investments and sacrifices, making it difficult to admit failure by engaging in negotiations. Part of this process is the role third parties can play in enhancing the attractiveness of negotiation by creating alluring alternatives both mentally and practically. According to Barnes and Griffiths (2008:16) certain specific measures such as removing international proscription and other travel bans could “increase the prospects of engagement.”

Local and international third parties who are seen as politically close to the armed group are known as ‘biased third parties’ or ‘biased mediators’ (Svensson 2015). They can often play a pivotal role in influencing armed groups. Zartman and Faure (2011: 274) argued that “biased mediators are helpful when they work to deliver the party they are biased toward”. These actors who often play a key role in ‘delivering’ the party they have strong affinities with, are often particularly stigmatised by the terrorism/counter-terrorism framing accompanying proscription (Haspeslagh and Dudouet 2015).

The roles played by third parties when it comes to engaging armed groups can be grouped under four categories: 1) understanding armed groups, 2) influencing how the group sees itself, 3) affecting the group’s strategic calculations and 4) organising trainings in conflict resolution and negotiation skills (Haspeslagh 2013).³⁵ But to be able to perform any of these roles, third parties need to have both access to the groups and have established a level of trust with the group. Proscription will affect these two pre-conditions of access and trust. Access to armed groups whether or not they are internationally listed is always complex. Bound in secrecy and uncertainty there has also always been a certain level of disapproval and little understanding of the need to contact and

³⁵ See Haspeslagh (2013) for more detail on the roles of third party actors in the context of engaging armed groups and how they might be influenced by proscription.

engage groups that use violent methods (Whitfield 2014). But proscription risks criminalizing third party actors, making it illegal for them to be in contact and thus affect access to the listed armed group in significant ways.

There is also a wide variety amongst third party actors. Different kinds of intermediaries will be affected differently by proscription. So, international third parties that are nationals of the most stringent proscription regimes like the US might feel particularly bound not to contact listed groups. Similarly, there might be a significant difference between official and unofficial actors. So for instance unofficial actors might feel safer to be seen to contact listed groups as they carry less political weight. At the same time, it is also possible that official actors that receive a level of immunity or political protection might actually be more willing to take these sorts of risks than non-governmental actors that have little protection.

Similarly, the trust that needs to be established with the armed group can be affected in different ways. In the case of governmental and inter-governmental diplomats acting as third parties, they can be engaging armed groups simultaneously while their governments or organisations might have also listed the group. Some see this as a case of ‘powerful’ third parties or ‘mediator with muscle’ wielding both the carrot and the stick by offering positive and negative inducements (Zartman and Faure 2011). Others see this as taking the risk of getting sucked into the conflict dynamics (Miall, Ramsbotham and Woodhouse 1999:161). The point is that there is a risk for the third party actor of losing the credibility and trust of the armed actor.

Counter-intuitively, it is also possible that the fact that a third party actor has taken a risk in being in contact with a listed group might actually afford them increased credibility and trust with the group. Similarly, people who are close to the group and end up in jail because of these contacts might increase their credibility vis-à-vis the group and become useful intermediaries. Academics working on Northern Ireland have pointed out the important role played by prisoners as intermediaries between republican and loyalist armed groups.³⁶

In terms of third party actors working with governments, the material effects of proscription would not affect access *to* them, but might affect the trust needed

³⁶ Christopher Mitchell, Professor Emeritus at the School for Conflict Analysis and Resolution at George Mason University, *Personal conversation*, November 2014, London, U.K.

to work *with* them. Brian Currin, a South African lawyer and international third party actor, found it impossible to establish a minimal level of trust with Madrid after having engaged with the listed ETA. He said “to work with people associated with terrorists means that [he is] a friend of terrorists, therefore not to be trusted, and therefore promoting an evil cause” (quoted in Haspeslagh and Dudouet 2015). An experience he found in marked contrast to his work in South Africa where he started being involved in the peace process by being appointed by Mandela to head the prison Audit Committee but ended-up working with both parties in the establishment of the Truth and Reconciliation Commission (Whitfield 2014). Similarly, by gaining too much trust with the LTTE the Norwegian mediators lost the trust of the Sri Lankan government (Whitfield 2010).

Having mapped out the possible effects of international proscription on the main actors under investigation, the chapter turns to exploring the effects on the three central processes at play during the pre-negotiation phases.

II. How proscription affects pre-negotiation processes

To understand how proscription affects pre-negotiation we need to explore the key ideas used to explain how, when and why parties get to the negotiation table and explore how proscription might affect these dynamics. The chapter does so by honing in on three central processes at play: namely the processes through which parties move from vilification to de-vilification, from asymmetry to perceiving symmetry, and from feeling a mutually hurting stalemate to envisaging a way out. Taking each process in turn and analysing them critically, this section assesses how they might be affected by international proscription.

1. The impact of proscription on (de)vilification

A central characteristic of protracted armed conflicts is that each side mobilises its supporters “behind mutually exclusive objectives and the demonization of the other side” (Guelke 2008: 69). De-legitimisation of the opponent is vital for both sides as it enables them to believe in the exclusivity of their claim (Guelke 2008: 69). It also enables them to motivate their troops and get their constituencies to support long-term and sustained war efforts. Exploring why conflict resolution

fails, particularly in the Israel and Palestinian conflict, Ramsbotham described what he called ‘linguistic intractability’ and argued that “The war of words is just as virulent – and can be just as potent – as the war of weapons.” (Ramsbotham 2016: 30).

All protracted conflicts are marked by the demonization of opponents. Shifting this is not straightforward and takes time. Rothstein for example argued that:

Changing the negative stereotypes of the other and ending the process of demonization and psychological distancing cannot be done quickly. These perceptions and attitudes have deep roots and may serve some useful purposes – as well as hostile ones – in strengthening group identity and maintaining group unity. (Rothstein 1999: 17).

It is a long road to what Kelman goes on to describe as reconciliation. He argued that a shift in attitudes between groups “must be expressed in symbolic gestures and public statements that acknowledge the other’s suffering, victimization, and shared humanity and that convey commitment to the other’s security, well-being and human rights.” (Kelman 1999: 199). Somewhere along this path vilification has to turn to de-vilification.

i. From vilification to de-vilification

A central concept in the pre-negotiation phase of peace processes is the need to shift from vilification to de-vilification. The pre-negotiation phase involves changing the public image of the adversary (Zartman 2008:121). The concept of villainising non-state armed groups adapted by Spector (2003) from his work on villainising states (1998) is particularly relevant for this study. Villainising, he explains, is the process of demonizing and dehumanizing the enemy. As noted above, these are “strong psychological motives that help countries clarify their purpose and demarcate their goodness from others’ badness” (Spector 1998: 47). It is also intended to influence domestic populations by seeking to “mobilize domestic perceptions against an outrageous enemy, to portray the other as not just an enemy but a rogue that must be undone. Socialization of the domestic population through the villainization process prepares them for any potential military action against the enemy.”(Spector 1998: 48).

Villains need to be “devillainized” for talking to begin (Spector 1998). For a government to be able to openly engage with a villainised group, they have to convince their constituency and public opinion that “they are no longer the devil, with whom one should not shake hands, or the enemy, against whom one wages a total confrontation” (Zartman & Faure 2011: 8). The risks are high, as they may appear hypocritical by turning the “demons of last week into legitimate and respectable partners of this week” (Spector 1998:49). In this case, actions are more compelling than words to create a public image that the villain has abandoned its villainous ways, allowing the government to negotiate without losing face. Spector (1998: 53) described this process as the model of “putting the decision in the villain’s hands” – i.e. the villain was forced to change its ways and tactics, “the villain needed to “devillainize” itself in a public and credible manner”.

The side of the equation that has been much less explored in this literature is the (de)vilification of the government. Spector (1998) for example highlighted the changes made by the IRA in Northern Ireland ahead of negotiations to ‘de-vilify’ itself, but failed to explicitly consider changes made by the British government in terms of its own de-vilification process or how the armed group attempted to de-vilify the government in its characterisations. During the pre-negotiation phase *both* parties have to start de-vilifying their opponents. This is the case with the government but also with the armed group. Here, the intra-party dynamics are key. Governments and armed groups have to be in a position to convince internal factions as well as their constituencies that the opponent is an entity that they can do business with, that they are rational enough, and that a negotiation can be started in good faith.

Though the term vilification is well established in the conflict resolution literature, and there is broad consensus that vilification has to somehow turn to de-vilification ahead of negotiations (Spector 1998, Spector 2003, Faure 2007, Zartman 2008, Zartman & Faure 2011), less has been written to explain how that happens, what its central components are. A useful starting point is to look at what constitutes vilification according to the literature. The opponent is cast as the enemy and is considered to be untrustworthy, illegitimate and not deserving of respect or the normal considerations of human behaviour (Spillmann & Spillmann

1991, Faure 2007). Furthermore, the villain is considered to act in a threatening or hostile fashion (Spector 2003) so is typecast as violent and its actions are condemned.

These components of vilification - enemy, no respect, untrustworthy, illegitimate, violent and actions condemned – need to all somehow be reversed by both sides during the processes of de-vilification (see Table 1). De-vilification happens when both sides start recognising the existence of the conflict. The overarching conflict narrative shifts, both sides acknowledge the fact that there is in fact a conflict. They also start referring to their opponent. They start showing that they acknowledge the other's existence. They also increasingly start showing respect for their opponent. This can be seen when the government uses the armed group's name or the armed group acknowledges the opponent's hierarchy by, for example, addressing a president as such. They start expressing the opinion that their opponent is rational and an entity that one can do business with. They acknowledge each other's political agenda and recognise each other's goals. They increasingly humanize their opponent and they create space for change to happen, for instance the armed group starts differentiating between the government and the state or the broader establishment (see Table 2).

Table 2. Reciprocal vilification and de-vilification

Vilification	De-vilification
Enemy	Recognition of conflict/opponent
No respect	Show respect/recognition (organization/hierarchy)
Untrustworthy	Can do business negotiate with/ admit rationality
Illegitimate	Acknowledge political agenda/ recognize goals
Violent	Humanization
Actions condemned	Allow for change

ii. Proscription and the 'terrorist' label as extreme vilification

It is well established in the negotiation literature that vilification will lead the opponent to be cast as untrustworthy, illegitimate, and violent - the enemy who does not deserve our respect and whose actions should be condemned.

Proscription will lead to an extreme form of this process. It is a form of ‘escalation of images’ (Zartman and Faure 2005). The previous discussion on the material and symbolic effects showed that proscription would affect the overarching conflict narrative. At the heart of what is understood as the conflict narrative are issues such as the root causes of the conflict and what keeps the conflict going. The main components of this heightened vilification are drawn out in Table 3.

First, the ‘terrorist’ label allows for a country’s problems to be framed in a way that does not acknowledge the existence of a conflict and it de-contextualises the ‘terrorist’ threat. Second, while vilification usually leads the opponents to treat each other with little respect, proscription leads to such extreme demonization that the armed group may even disappear all together from official discourse. Third, the opponent is framed not only as untrustworthy but also as irrational. This entails that the parties cannot trust each other as possible negotiation partners. Fourth, proscription also shifts the focus from a political conflict where the legitimacy of actors or their objectives are questioned to one where the opponent is perceived as not being political - it de-legitimises the cause being fought. Simplifying the conflict to a fight against illegal and criminal actors without a political agenda rendering eventual negotiations meaningless. Fifth, it casts the opponent not just as violent but as an actor that uses a type of violence, ‘terrorist violence’, that is unprincipled and immoral so the actor itself is considered barbarous, even inhumane. Finally, it rarefies the group into being only a ‘terrorist’ group. It does not merely condemn terrorist acts placing them in a broader arsenal of possible warfare tools, but it turns the armed group itself into being *just* terrorists. The act and the actor become one and the same, which has a deep effect on the possibilities for conflict resolution because no change appears to be possible.³⁷

³⁷ In the context of Northern Ireland and South Africa, Kirkpatrick (2018a) comes to the conclusion that criminalisation has to shift away from actors onto acts for conflict resolution to take place.

Table 3. Proscription and extreme vilification

Vilification	Extreme vilification: the terrorist label
Enemy	No conflict/ no enemy/ de-contextualises
No respect	Demonization/absence
Untrustworthy	Irrational
Illegitimate	De-politicises / criminal / no cause
Violent	Not human/ without principles/ barbarous
Actions condemned	Act and actor one and the same - no change possible

iii. The ‘linguistic ceasefire’

The material and symbolic interaction explored above showed that that listing is in effect productive. Particularly relevant to this study is the constructivist and labelling literature’s understanding that a name will place emphasis on certain characteristics while neglecting others and thus lead to a more limited set of responses. So, this heightened dehumanisation of the enemy justifies using methods of combat against them that are outside the laws of traditional warfare. But, more importantly for our argument, it also affects the possibility of engaging in a negotiation with armed groups labelled as ‘terrorists’. We saw previously that for the government, proscription can have the effect of creating a “policy straightjacket” (Hicks 1991:29). Similarly, Pettyjohn (2009:141) argued that having branded the group ‘terrorists’ in the eyes of national and international public opinion “a state is hard put to convince international and domestic audiences that the organization is now reformed and worthy of engagement”.

Not only does the government in effect close down the possibility of being seen to negotiate with ‘terrorists’, but also, the labelled group itself can react to the label and might not be inclined to enter into a negotiation. Faure (2007: 7) captures this conundrum well when he says:

Labelling the other party a “terrorist” will mean that the party designated as such is unlikely to be willing to negotiate. They may feel insulted and refuse to enter into relations with the opposing party. On the other hand, a state, for example, cannot formally negotiate with a terrorist counterpart.

The ‘terrorist’ label and the extreme vilification that goes with it lock the parties in a catch 22 situation. As Toros (2012:96) argued, the ‘terrorist’ needs to be unlabelled to start negotiating. But what has not been explored in this literature is how this ‘un-labelling’ takes place. This thesis offers the idea of the ‘linguistic ceasefire’ to enhance our understanding of the de-vilification process in the context of proscription.³⁸

The ‘linguistic ceasefire’ is defined as a process through which the government starts disarming and de-escalating the language used to describe its opponent in a public fashion. Though this particular step is intrinsically linked to the broader process of de-vilification, it is helpful to try and isolate it to understand its importance and main characteristics. It also tells us something useful about the order and the chronology in which things happen. For de-vilification to happen the villain who has been proscribed first needs to be brought back into the realm of ‘normal’ politics so that further de-vilification can take place. Or, to put it in other terms, the ‘linguistic ceasefire’ becomes a necessary condition for further de-vilification. It is about removing the symbolic impact of proscription even if actual de-listing is not possible ahead of negotiations.

The asymmetrical nature of proscription means that this process of unlabelling is one-sided. It is important to consider the intrinsic difference here between the types of actors and how proscription might affect them, as we saw earlier. Non-state armed groups do not have the same audience costs as governments both vis-à-vis the general public or vis-à-vis international opinion. It is the government that needs to un-label the armed group before the two-sided normal de-vilification process can start.

The shift in language is a conscious and deliberate attempt at sending signals. This signalling has multiple audiences and has as much to do with intra-party as inter-party dynamics. For the government, the ‘linguistic ceasefire’ is an effort at shifting the image of the adversary held by the public both nationally and internationally. It is also about bringing their constituencies along in this transition. In some cases, the ‘linguistic ceasefire’ is incremental and allows

³⁸ This is a concept that has not been used before in academic work. Though the idea it encompasses has been expressed or described by practitioners and mediators in one form or the other. For example, in an entry in Jan Eliasson’s diary when he was mediating the Iran-Iraq negotiations in 1988, he referred to a “verbal cease-fire” (quoted in Svensson and Wallensteen 2010: 54). This was to be one of the guiding principles for the negotiation. The idea was that it would help build confidence between the parties.

certain branches of government to continue using the label to ensure that key internal constituencies like the military are brought on board over time. It is also a way of signalling their seriousness to their opponent.

There are three main components to this process (see Table 4). First, the government recognises the existence of the conflict. The fight is no longer one of ‘terrorists’ against a democracy but an armed conflict with two sides (or more). This helps re-contextualise the armed group and also makes the possibility of negotiating a peace agreement possible. Second, the government refrains from using the ‘terrorist’ label; the ‘terrorist’ tag is used less frequently until it is replaced by other epithets. Finally, by uncoupling the act of terrorism and the actor, the armed group is no longer *just* a terrorist group, it gains in complexity and change becomes a real possibility.

Table 4. Extreme (de)vilification and the ‘linguistic ceasefire’

Vilification	Extreme vilification the terrorist label	‘Linguistic ceasefire’	De-vilification
Enemy	No conflict/ no enemy/ de-contextualises	Recognise the conflict	Recognition of opponent
No respect	Demonization/ absence	Drop ‘terrorist’ label	Show respect/recognition (organization/ hierarchy)
Untrustworthy	Irrational		Can do business negotiate with/admit rationality
Illegitimate	De-politicises / criminal / no cause		Acknowledge political agenda/ recognize goals
Violent	Not human/ without principles/ barbarous		Humanization
Actions condemned	Act and actor one and the same - no change possible	Uncouple act and actor	Allow for change

2. The impact of proscription on (a)symmetry

Asymmetry is generally understood as an imbalance in power. The idea being that states with unequal power resources confront each other. But, in the case of intra-state conflicts, asymmetry takes on a different meaning and goes to the heart of

how power is understood and contested in violent protracted conflicts. Structural and long-lasting asymmetry, which develops over time in protracted conflicts, becomes one of the barriers to the inception of peace negotiations. According to negotiation literature, a more equal power balance favours negotiations (Albin 1999; Zartman and Rubin 2004). Or to put it in different terms “symmetry is a necessary but not sufficient condition for successful negotiations” (Pfetsch and Landau 2000: 40). It is based on a simple argument – “Equals make peace more readily and more easily than unequals” (Mitchell 1995: 36).

Conflicts where the armed group is proscribed internationally are asymmetrical by definition. Yet, as Telledis (2015) points out, the opposite is true for conflict resolution frameworks, where symmetry is of essence. Diana Francis (2002) rightly contends that conflict transformation must have something radical to offer in conflicts where power asymmetry is not incidental but of essence. So, to understand how proscription and pre-negotiations can coexist and what the effect of one is on the other, there is a need to develop a more complex understanding of the sources of power and thus of asymmetry and symmetry. We also need to explore how symmetry is generally established and what the effects of proscription are both on asymmetry and on the ways it is usually reduced to encourage symmetry.

i. Sources of power

In today’s state-centred international system, “states often have the power to construct and structure notions of legitimacy and to enforce state legitimacy through dominant discourses and political and legal processes.” (McAuley, McGlynn and Tonge 2009: 90). But sources of power cannot be taken for granted in a conflict-context where legitimacy is deeply contested. Assymetry does not always lean towards the state. We have to dig a bit deeper in our understanding of the sources of power. More traditional accounts of power fail to understand resources and capacities in the broadest sense. Realists see power as force, neo-realists approach power as resources. But, as Zartman (1997) pointed out, both fail to take on the use of less material resources such as will and skill.

A seminal article from the mid 1970s already highlighted the importance of political and more immaterial sources of power in the context of highly asymmetrical inter-state conflicts. Andrew Mack’s (1975) article in *World*

Politics, 'Why Big Nations Lose Small Wars', showed how militarily and technologically stronger countries lost wars to smaller/weaker states. In explaining why that was the case he highlighted the importance of political will. In the case of the smaller/weaker countries they leveled the asymmetry by perceiving the war as 'total' whereas external power saw it as 'limited' as their opponent was not in a position to threaten their survival. As he incisively put it: "The constraints on mobilization are political, not material." (Mack 1975: 179). Though this piece was written in relation to inter-state conflicts, the lessons are also relevant for intra-state conflicts where the sources of power that a government or a non-state armed group can command might be rather different (Ohlson 1998).

So, an understanding of power focussed just on resources such as military or economic resources cannot account for these other forms of power. George Mitchell highlighted the need to differentiate types of "power as advantage" and how they are distributed amongst adversaries (Mitchell 2009: Notes 1). In doing so, he differentiated between different types of power: legal or status asymmetry, resources or capability asymmetry, behavioural asymmetries of tactics, moral asymmetry (i.e. right and wrong) and structural asymmetries (i.e. differences in the nature and conditions of conflict adversaries) (Mitchell 1991: 31; Mitchell 1995). Similarly, Philipson (2005: 68) showed the diversity in sources of power in asymmetrical conflicts by highlighting "'soft' and 'hard' political power; the commitment of constituencies, combatants and politicians; communication and bilateral relationships; and the political will to apply resources to war and peace".

All these different sources of power are important to develop an understanding of asymmetry and symmetry. To be able to evaluate both the material and symbolic dimensions of power in interaction, we fold these different sources of power under two main headings: 1) Status and 2) Resources (see Table 5). So, status (a)symmetry would include the legal and status (a)symmetries mentioned by Mitchell (2009), but also the point made by Philipson (2005) on communication and bilateral/international relations. The resources (a)symmetry would include both material resources, such as military might and economic strength, but also the more abstract notions of capacity asymmetry and the will or skill flagged by Mack (1975) and Zartman (1997) as well as political and moral

asymmetry. Behavioural asymmetries of tactics would be folded in with military might. The commitment of constituencies, combatants and politicians would come under the heading of will and skills.³⁹

Table 5. Sources of power and (a)symmetry

Sources of power	(A)symmetry
Status	Legal
	Status
	International contacts/relations
Resources	Military might and tactics
	Will and skills
	Economic
	Political/moral

ii. From asymmetry to perceiving symmetry

Moving from a situation of power asymmetry to one of symmetry between conflict parties is a central feature of the pre-negotiation phase. “But in reality, it is not the *fact* of symmetry or asymmetry that can be related to behaviors but its *perception*, or power as perceived relation.” (Zartman 1997: 230 – emphasis added). A number of authors concur that perception by the conflict parties mediates objective reality and is central to understanding what constitutes asymmetry or symmetry (Mitchell 1995; Aggestam 2010; and Zartman and Rubin 2000; Zartman 1997; Pfetsch and Labdau 2000; McAuley, McGlynn and Tonge 2008). What is under investigation here is thus the asymmetry or symmetry in the perception of power not as an objective reality. Central to this is the need for the weaker party to develop a sense of increased power, so that both sides come to *see* their power as equal (Pruitt 2009).

In exploring what he described as the “structuralist dilemma” Zartman (1997, 1999) explained how a party that is effectively weaker can negotiate with a party that is stronger and still get something. Though this work has centred on inter-state negotiation processes the key findings can still be applied. Firstly, the weaker party gained sources of power by using the negotiation process and its evolution through equalizing actions rather than necessarily acquiring actual status equality (Zartman 1997). Secondly, the weaker parties tried to ‘borrow power’

³⁹ The structural asymmetries mentioned by Mitchell (1991, 1995) are purposely left out because they cannot be easily shifted in terms of fostering perceived symmetry ahead of negotiations.

from various sources but particularly from third party actors. This conclusion chimes with Ohlson (1998) and Kriesberg (2009) who argued that though asymmetry in negotiations is complex and multi-faceted, third party facilitated dialogue have often succeeded in altering this asymmetry. So, third party actors are key in helping to build perceived symmetry.

To understand how perceived symmetry is established in the pre-negotiation phase it is useful to explore for each source of power identified how they have been shifted during pre-negotiations drawing from the conflict and peace literature (See Table 6).

Table 6. How perceived symmetry can be encouraged

Sources of power	(A)symmetry	How perceived symmetry can be encouraged
Status	Legal	Official/belligerent status
	Status	Political recognition
	International contacts/relations	International recognition Direct contact 3 rd parties
Resources	Military might and tactics	Ceasefire/demilitarized area/prisoner swap
	Will and skills	Negotiation skills training/borrow from process
	Economic	External support
	Political/moral	Wide-ranging contacts/constituencies

Status asymmetry can be reversed by giving the weaker party an official status, for example a belligerent status or by endowing it with some form of political recognition. A method that is commonly used to increase legal symmetry is to increase the legal status of the armed group (Mitchell 1995:31). Another way symmetry can be encouraged is through international recognition or support. This can be done by lobbying and contacts in other countries, armed group leaders setting off on world tours, setting-up quasi-embassies, or trying to get a form of affiliation in an international organization. Certain armed groups, for example, have been able to mount successful lobbying campaigns. The ANC's fourth pillar of struggle was about isolating the apartheid forces in the international arena. Similarly in Aceh, GAM intensified its international advocacy efforts in 2002 and 2003: "In its search for international legitimacy to balance its asymmetrical

position with Jakarta, the exiled leadership advanced its political cause by shifting from anti-capitalist and anti-Western discourses to appeals for human rights and democracy.” (Dudouet 2009:34).

In terms of resources, generally the ways in which material resources such as military might and economic resources are equalized are more commonly addressed in the literature. Armed groups for example entertain cross-border relations with state-sponsors or other armed groups to get weapons, training grounds or safe havens. Governments that are feeling under military pressure buy weapons from abroad and sometimes get direct military hardware support or even sometimes direct intervention. These are ways of addressing the asymmetry that effectively escalate the confrontation. But, when it comes to de-escalation, a range of measures can be taken that are aimed at building confidence between the conflict parties and creating a sense of symmetry ahead of future peace negotiations. These confidence-building measures include ceasefires or the establishment of neutral zones or prisoner exchanges for example.

The diversity in skill and understanding of the negotiation process is another area where much can be done to create perceived symmetry. States tend to be more familiar with diplomatic norms, understanding of negotiation processes and have pre-established political agendas. Armed groups have less of an understanding of the structure, pace and process of negotiations (Lustenberger 2012). According to Dudouet and Planta (2012), armed groups can level the playing field by filling their knowledge gap about the technical asymmetries of the negotiation itself. Kriesberg (2009) argued that a mediator’s involvement tends to lend support to those that can articulate goals and methods more clearly. Philipson (2005:71) went a step further arguing that dealing with strong asymmetry often requires “the mediator to give unbalanced assistance directly or persuade other experts to work directly with the weaker party – government or non-government.”

In terms of political and moral resources, armed groups often claim to represent a defined constituency and have a complex web of relationships. Public marches and demonstrations can strengthen the party that can mobilize large groups of people (Kriesberg 2009:8). Armed groups can also build alliances. In Nepal, for example, the Maoists established a strategic alliance with the seven-

party alliance in 2005, which is thought to have contributed to the success of the third round of peace negotiations (Dudouet 2009: 31).

Having sketched out the key elements of (a)symmetry and the ways in which symmetry tends to be encouraged in a pre-negotiation phase, the chapter turns to assessing the effects of proscription on status and resources (a)symmetry.

iii. Effect of proscription on (a)symmetry

Proscription will influence both the nature of the asymmetry between the government and the armed group but also the way the perception of symmetry is generally encouraged.

Status (a)symmetry

Conflict parties spend much time either trying to reduce or maintain the “legal distance” between each other (Mitchell 1995:30). In this context, a central strategy of conflict parties is “to have one’s own version of favourable legal imbalance accepted in an international court” (Mitchell 1995:32). The international proscription of armed groups thus becomes a central ‘battleground’ in this process. Through international proscription, the state finds its legal status improved and the listed group finds its legal status much reduced. Moreover, the central symbolic effect of proscription is that it denies armed groups legitimacy and recognition (Bahtia 2008, Toros 2008, Höglund 2011, Franks 2012) as we saw earlier. But while it delegitimises armed group violence from the outset, it also bolsters the legitimacy of the state. This goes hand in hand with increased international contacts and support for the government which are severely reduced for the listed armed group because of the stigma attached to engaging with a listed entity but also through material provisions of travel bans and having to close offices or representations in foreign countries.

So, in the case of the armed group or the ‘weaker party’ being proscribed we can expect the status asymmetry between the parties to be heightened, but how might it affect the ways perceived symmetry is generally encouraged ahead of negotiations. National or international de-listing can be a way of rebalancing the asymmetry by in effect annulling the effect of proscription both materially and symbolically. Zartman and Faure (2011:5) argue that the fact of engaging and

later negotiating with the group automatically “carry with them recognition of the terrorist organization (and, for the terrorists, the recognition of the state)”. But, because of the high political cost associated with this recognition in the context of proscription we might either see a refusal by the government to grant it or a more indirect or incremental process of recognition. Such as the government putting in place a ‘linguistic ceasefire’, which, as we saw earlier, would annul the symbolic impact of proscription, giving the armed group some form of subtle recognition.

While generally the weaker party will “borrow” power from other actors, such as international contacts or third party actors, in the context of proscription the symbolic and material effects will lead these contacts to be reduced or secret. The armed groups might also try to tip the balance in their favour by receiving recognition and support from countries that choose to stay out of the proscription regime or circumvent it.

Resources (a)symmetry

Material forms of military support for the government, be it just advice, intelligence, military hardware or financial aid, will generally accompany international proscription. For the listed armed group, that will translate in heightened military pressure and, possibly, a shift in tactic or behaviour. Whereas instigating a bilateral ceasefire or prisoner swap might normally foster symmetry, proscription might make these strategies too costly politically for the government. We might however see efforts on the part of the listed group to pursue unilateral tactics such as one-sided ceasefires or hostage releases.

Some of the material consequences of proscription on armed groups, such as asset freezes, will lead to practical ramifications in terms of an armed groups’ access to funds and fund-raising capacities. Meanwhile, the government will most likely be receiving increased financial support internationally. This will heighten the asymmetry. Listed entities may find a way around it by receiving support from actors that have opted out of the proscription regime to bolster themselves.

Proscription will have an effect on the access to trainings and skills for the listed group. Certain provisions in proscription regimes, which criminalise contact with listed groups or actions that constitute support to the groups such as funding or travel, might affect the possibility of holding training workshops. As we saw above and in the practitioner work on the effect of proscription on third party

actors, proscription seems to have a “chilling effect” on third parties, leading them to avoid, or to question how far they can take interaction with listed groups (Dudouet 2011).

While proscription will inevitably lead to a loss of moral legitimacy for the listed armed group, it can also stigmatize local communities where the group operates or support networks such as diaspora communities. Furthermore, as we saw in Chapter 3, the cause associated with the listed group itself might be deeply discredited. To redress the asymmetry, the listed group will be much more limited in its contacts and abilities to generate explicit political support such as marches or alliances ahead of negotiations both because of the material and symbolic effects of proscription.

In the context of proscription, the listed armed group will be limited in its ability to ‘borrow’ power. Moreover the government will be less willing to establish (perceived) symmetry with the armed group. The ‘linguistic ceasefire’ offers the government a way to give the group a sense of increased status without the high political costs associated with other forms of recognition. Moreover, a form of parity of esteem might be established through the pre-negotiation process itself. But the government will be unwilling to shift the resources asymmetry in favour of the listed group. The proscribed group might get around some of these difficulties through unilateral gestures and by receiving support from actors that have opted out of the proscription regime.

3. The impact of proscription on ripeness

Central to the understanding of pre-negotiation is the concept of *ripeness*. It is particularly well suited to answer questions around the timing of negotiation: Why did parties enter into negotiations? And particularly, why then? I. William Zartman (1989, 2000) argued that two conditions are necessary but not sufficient for a conflict to be ripe: the mutually hurting stalemate and the way out. Before assessing the effect of proscription on this classical conflict resolution idea, the chapter revisits these concepts.

i. Revisiting the mutually hurting stalemate and the way out

There has been much scholarly discussion on this notion of ripeness. Some arguing that a ripe moment can only be identified post-facto so is weak in terms of

its predictive capacity (Lederach 2008). Others contend that instead of ripeness one should talk about willingness (Kleiboer 1994; Mitchell 1996) or readiness (Pruitt 2005; Schiff 2014) of conflict parties. But these concepts have become so embedded in explaining the timing of negotiations that even policy-makers and conflict parties themselves refer to them.

Yet, much of the focus on ripeness has revolved around the concept of the mutually hurting stalemate rather than the way out, and particularly the *hurting* element of it in military terms especially when it comes to how it has been translated in conflict resolution circles.⁴⁰ One recent example is a piece in the *Atlantic* by Jonathan Powell (2015), Tony Blair's former negotiator during the Good Friday agreement, where he reflects on the need to negotiate with ISIS. Powell (2015) stated:

Past experience tells us, however, that it would be sensible to open a secret channel now so we can communicate with ISIS and put ourselves in a position to negotiate once we have arrived at a "mutually hurting stalemate" in which both sides realize they cannot win militarily.

This portrayal of ripeness shows the typical simplification of the concept to the mutually hurting stalemate element and its purely military nature. Much of the initial richness of 'ripeness theory' has been lost along the way. This framework hopes to salvage it.

Parties perceive a stalemate when both sides think the costs of continuing the struggle exceed the benefits. There is an important psychological element to this process. It is not the stalemate itself that leads parties to the table but the *perception* of that stalemate. There is no such thing as an objective stalemate, as has often been mischaracterized. The parties' *perception* of a stalemate is central to the concept of ripe moment (Zartman 1998; Zartman 2008). This is similar to Kleibor's (1994) subjective dimension of willingness. Zartman (1998; 2015) has elaborated this point further in the context of the Middle East by highlighting the subjective nature of pain and the fact that parties often insulate themselves from

⁴⁰ See for example Ulracher (2013). Also, See Johnson & Jonsson (2013:74) for an illustration of how the mutually hurting stalemate analysis is applied in the case of Colombia: "The Colombian conflict may thus have reached a 'mutually hurting stalemate', since FARC has been diminished and cannot realistically expect to return to its former size and military capability, while the Colombian government cannot expect to win the conflict through military means alone."

feeling it. Moreover, the *mutual* element means that it has to be perceived and ‘felt’ as a stalemate on *both sides*.

But pain is not purely military and can be felt through all sorts of factors. As Zartman himself noted during a panel at an ISA Conference in 2014, the mutually hurting stalemate does not have to come in “body bags”. Moreover, though the deadlock has to be painful to both of them, it does not have to be for the same reasons or to the same degree (Zartman 2003). This thesis argues that the mutually hurting stalemate has both a military and a political component. Military costs are more obvious, things like the loss of territory, soldiers, the killing of leadership or desertions etc. Politically, some elements to look out for are things like changes in leadership (Zartman and de Soto 2010; Ullrich 2013), generational changes for the armed group or changes in allies (Zartman and de Soto 2010) or in public opinion or the mobilisation of citizens towards peace for example.

The other part of the story is that alongside the pain of the stalemate, conflict parties also need to perceive a way out, meaning that *both* sides need to see a negotiated solution as possible. Otherwise “the push associated with the mutually hurting stalemate would leave the parties with nowhere to go” (Zartman 2003). So party A convinces party B it is willing and able to negotiate: “Parties do not have to be able to identify a specific solution, but they must have the sense that a negotiated solution is possible and that the other party shares that sense and the willingness to search for a solution” (Zartman and de Soto: 6). Third party actors can play important roles in helping the parties *see* a way out.

Following the work done by scholars like Stedman (1991), Mitchell (2008) and Ullrich (2013), this thesis aims to reinstate the importance of the way out vis-à-vis the mutually hurting stalemate in understanding why parties come to the negotiation table. The concept of the way out is crucial because it is about parties being able to see another path to achieving their goals, a political path. Whereas the original formulation of the way out is focussed on inter-party changes (i.e. party A convinces party B), this framework adds an internal dimension to the way out. The party *itself* has to see that it has a way out. By looking at the intra-party dynamic it allows for an analysis of shifts within a party that lead them to consider exploring the decision to negotiate. So, both parties need to sense that

negotiation is an option *and* that the other side is willing to negotiate in good faith.

This builds on the most useful additions to the ripeness concept, which have highlighted the lack of a political dimension in the original formulation. Authors such as Haas (1990), Stedman (1991), Mitchell (1996), Pruitt (2005) and Ullrich (2013) all conclude that there is a need to incorporate the analysis of internal political processes that influence decision-making for each party (Pruitt 2005). Indeed, Mitchell (1996:12) developed the idea of ‘internal ripeness’ and argued that “the willingness of leaders to contemplate a process of peaceful resolution is as likely to depend crucially on conditions being appropriate within both parties as well as between them”.

While these authors had flagged the importance of looking at the internal dimension of ripeness, the application of this idea had been rather limited especially when it came to understanding the changes that lead armed groups to perceive ripeness. Even Ullrich (2013) who’s article is entitled ‘Negotiating with Insurgents: Changing Perceptions or Changing Politics?’ only focused on the governments’ perspectives because of what he described as empirical constraints. He argued there was less data available on the preferences of rebel leaders. This thesis aims to fill this gap because internal dynamics and debate are also central to the process of ripening for armed groups, even the most seemingly authoritarian ones. To allow us to do this it is helpful to complement concepts such as the mutually hurting stalemate and the way out with the recent literature on armed group focussed on intra-party change explored above. Ideas such as the ‘composite actor approach’ (Pearlman 2010) and the ‘institutional equilibrium’ (McLauchlin and Pearlman 2011) will be helpful in understanding intra-party shifts when it comes to armed groups.

Finally, a more central challenge to the concept of ripeness has been its simplification to the idea that if a conflict is not ripe then conflict resolution efforts should not be attempted, as they will fail. Zartman himself has clarified that *unripeness* should not constitute an excuse for third party inaction (Zartman 2008): “The absence of ripeness is not a valid reason for inaction. Prospective mediators (and the parties themselves) can develop a policy of ripening” (Zartman and de Soto 2010:6). Here the role of other actors is key in terms of helping

parties perceive a mutually hurting stalemate and a way out. As we saw above, third parties can help belligerent groups ‘de-commit’ from the military confrontation and help shape a way out. Similarly, broader civil society can also help foster a way out by calling on the parties to enter into dialogue.

Building on the same idea, and in the absence of a mutually hurting stalemate, Zartman (2005) also developed the idea of a ‘mutually enticing opportunity’. This can happen when the way out takes over from the mutually hurting stalemate. It is “the pull of an attractive outcome” (Zartman 2005: 1). The pull factor becomes the motor towards the negotiation instead of the push of the mutually hurting stalemate. Cases where this has happened and been successful are few and far between (Zartman 2005).

Having revisited the key concepts of ripeness the chapter now turns to understanding the possible effects of proscription.

ii. Effect of proscription on the mutually hurting stalemate and the way out

Proscription as a type of sanction is intended to make the targeted armed group hurt. If our understanding of ripeness were focussed on the hurting element of ripeness in military terms the assumption would be that proscription would help ripen the conflict. But, as a more complete understanding of the mutually hurting stalemate and the way out made clear, the way proscription will play out is not that straight forward. In fact, proscription may work against ripeness by postponing the mutually hurting stalemate and blocking the way out.

Postponing the Stalemate

International proscription may strengthen the government militarily and strategically, which could have an impact on the military component of the mutually hurting stalemate. As we saw earlier, the re-casting of armed groups as ‘terrorists’ on the global arena translates into specific shifts both symbolically and materially. At a symbolic level, for the government, it gives increased legitimacy and support for its campaign against the group. Giving more support to the type of fight being led against the group focussed on increasing stability and security through police and military initiatives and not political engagement. At the same time, international proscription and having ones enemy subsumed in the ‘broader

war on terror' can also lead to very direct material consequences such as extra resources, training, intelligence equipment and information that might affect the military equilibrium.

The assumption would be that such a shift would push armed groups towards feeling a hurting stalemate, or the feeling that they will not win the war through the use of violence. But two factors need to be taken into consideration. First, it will depend on the armed group's support structure and resources and whether or not these will be affected materially by international proscription. If they have a sponsor that is not aligned with the multilateral proscription regime they might be able to circumvent some of the 'pain'. Second, we have now established that there is no such thing as an objective stalemate, the effect depends on the armed group's world-view and how it perceives its own military strength and its relationship with its constituents. The party can somehow insulate itself from feeling this 'pain' (Zartman 2015). And, as Pearlman's (2010) composite actor approach indicates, there might also be discrepancies within the group with some feeling the material and symbolic pain more than others.

Moreover, politically, while the international proscription of an armed group as a terrorist organisation means the armed group might feel de-legitimized nationally and internationally, its effect will also depend substantially on the group's own perception and what shapes its understanding of itself, going back to Adler-Nissen's (2014) point on counter-stigmatisation. This raises important questions as to how the armed group itself or individuals within it might react to the label of internationally branded 'terrorist'.

Crucially, the government, emboldened by this external support, may feel that it can win the war militarily, thus moving them further away from perceiving a military stalemate. This chimes with what Grieg and Diehl (2012:109) argue when they say that the "unconstrained side" would continue fighting, leading to a one-sided stalemate. This could, in effect, postpone a mutually hurting stalemate from emerging. Moreover, by getting their outlook of their opponent symbolically validated on the world stage through international proscription, governments' will feel politically validated and recognised in their endeavour to tackle the group. This might entail that the government would not feel pressured externally into feeling the political component of a mutually hurting stalemate either.

However, there might be particular political costs associated with the strategy pursued that, over time, could create resistance and pressure. Human rights violations associated with the type of strategy pursued by the government in its fight against ‘terrorists’ can create a backlash nationally or internationally. If international proscription comes along with material support to the military, the governments in these countries may come under pressure from human rights groups and other advocacy networks to ensure that international standards are adhered to. If this is not the case, then the belligerent government might itself come under pressure to shift its behaviour, or at least feel some political pain inching it closer to perceiving a political stalemate.

No Way Out

Whether or not international proscription pushes the parties towards a stalemate, some kind of turning point in perception is needed to turn a stalemate into a search for alternatives (Zartman 1995). This is where the way out comes in. How would proscription affect the process through which parties can envisage a way out? We have already assessed how proscription might affect the roles played by third party actors, but how would it affect 1) inter-party relations; and 2) intra-party relations. First, in terms of the inter-party relationship, the question is, does proscription impede one side signalling to the other that it is ready to negotiate? By getting their judgement of the armed group being a ‘terrorist’ validated on the world stage, the government in effect makes it near impossible to publically engage the proscribed group. As we saw above, international proscription appears to put the armed group beyond the pale of dialogue, or at least, it would raise the costs of engagement so much that any initial overtures would have to be indirect, led by third parties and deniable. So, governments would be unable to signal willingness to negotiate publically. Moreover, the armed group would be faced with the only option available if negotiations are off the table, to surrender and demobilise.

Second, we saw above that intra-party dynamics are central to perceiving a way out. For the government, we established that a direct side effect of the vilification of their ‘terrorist’ opponent and the focus on a no-negotiation stance, builds-up resistance within the state and with its own constituents which limits the state’s freedom of action (Hicks 1991, Pecastaing 2011). International listings will

reinforce this trend and entrench an understanding of the armed group as un-engageable. This will also affect the space for manoeuvre the government has at an international level putting the government in a difficult position if they want to reverse their policy. The other dimension to bear in mind is whether the armed group itself, having been proscribed, can envisage a way out? How would international proscription affect the 'institutional equilibrium' within the group? It might strengthen the hand of those advocating for the continuation of the armed struggle because of the absence of obvious political options or alternatives? The de-politicisation associated with proscription would lead its politics to be pushed further underground. Through the de-legitimisation of its cause internationally and through material impacts such as the closing of offices or travel bans, the group would see their political options as closed nationally and internationally. This could play a crucial role in them not perceiving a way out.

It appears that proscription will distort the classic conflict resolution paradigm of the mutually hurting stalemate and the way out: the mutually hurting stalemate might be postponed and the way out might be blocked. So, how do we explain the conundrum that set us on the path for this research - that contrary to what we might expect, governments do end up negotiating with proscribed armed groups? What explains the manner in which the way out is encouraged in the context of proscription? For that we need to go back to the idea of the 'linguistic ceasefire' developed earlier, and add a new idea, the creation of a 'political landing strip'.

Creating a way out: the 'linguistic ceasefire' and the 'political landing strip'

We argued above that the way out has two main components: the inter-party dynamic and the intra-party dimension. In terms of the inter-party element, we saw that the 'linguistic ceasefire' is a crucial first step in the process of public de-vilification of the proscribed armed group. It sets the stage for further reciprocal de-vilification and opens the possibility of public pre-negotiations by annulling the symbolic effects of proscription. The 'linguistic ceasefire' is a deliberate and conscious attempt to open-up political space and create possibility for dialogue. It has three components: (1) recognise the conflict; (2) drop the 'terrorist' label and (3) uncouple the actor from the acts. While this concept goes some way in explaining how the government can signal willingness to negotiate to the armed

group – thus the inter-party dimension of the way out - it is not enough to influence the intra-party dynamics or to show the armed group that a political path is possible.

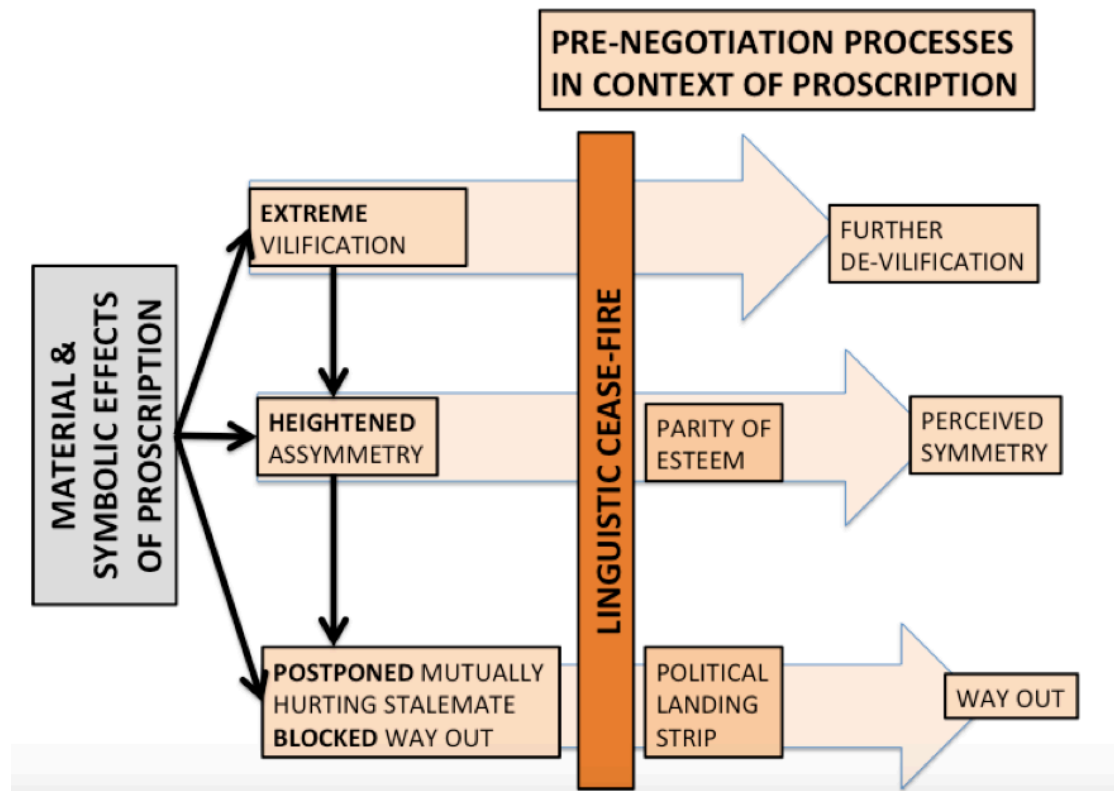
What is needed is a ‘political landing strip’ that allows the proscribed armed group *itself* to envision another path to achieving its goals. This needs to happen at three levels: 1) international level; 2) national level; 3) local level. Internationally the proscribed group needs to have countries or examples of armed groups that have made successful political transitions. These foreign actors can show the group that other paths are possible beyond the armed one. At a national level, what is crucial is that some political space is opened up which allows the group to perceive the possibility of a political future. Here, national civil society, political parties, academic, religious actors can play a role. Locally, in areas where the armed group operates, grassroots movements, insider mediators or local communities being politically active can show the group that a non-violent path is possible.

The idea of a ‘political landing strip’ also helps us understand how a conflict can be ripened. Here the role of other actors is key in terms of helping parties perceive a way out. As we saw above, third parties can help belligerent groups ‘de-commit’ from the military confrontation and shape a way out. But other actors as well, such as foreign governments, civil society, church leaders, actors close to armed groups, local communities can also play a fundamental role in shifting the perspectives of armed actors and showing them a political path.

Before concluding, it is helpful to reflect back on the possible effects of proscription on the three central processes of pre-negotiation being analysed. It appears that international proscription will not only lead to extreme vilification, but it will also heighten the asymmetry between the government and the listed armed group. Moreover, the mutually hurting stalemate might well be postponed and the way out could be blocked. So how can we explain the conundrum that set us on the path for this thesis, that negotiations *do* still take place with proscribed groups? One central element that appears to explain how pre-negotiation happens in the context of proscription is the ‘linguistic ceasefire’. As we see in Diagram 2, it cuts across all the three processes and becomes a pre-condition not just for

further de-vilification but also for the establishment of a perception of symmetry and to create a way out of the military confrontation.

Diagram 2. The effect of proscription on pre-negotiation processes



Conclusion

By drawing on the peace and conflict literature, this chapter built an analytical framework to study the effects of proscription on the inception of peace negotiations. While previous attempts at assessing the impact of proscription have been either ad hoc or narrowly focussed on third party actors, this framework offers a more nuanced and systematic way of assessing the possible effects of proscription. It is centred on understanding the material and symbolic effects of proscription on the main actors involved and the central processes through which these parties get to the negotiation table.

By delving into three dynamics that lie at the heart of pre-negotiations, the move from vilification to de-vilification, the shift from asymmetry to perceiving symmetry and the mutually hurting stalemate to the way out, the chapter revisited central concepts and added to them. It drew out some of the key components of

these ideas to establish what the effects of proscription might be and also offered new ideas to understand pre-negotiations in the context of proscription such as the ‘linguistic ceasefire’ and the ‘political landing strip’.

Though this framework might need to be adjusted depending on the context explored, it should remain general and dynamic enough to fit the large class of cases this study is interested in. In order to explore its utility and the insights it can generate we now turn to its application in a concrete case: the two instances of pre-negotiation between the Colombian government and the FARC.

Chapter Five

(De)Vilification and the ‘Linguistic Ceasefire’

Introduction

In July 1998, a month before being sworn in as President of Colombia, President elect Andres Pastrana made a perilous journey to Southern Colombia to meet with Manuel Marulanda then leader of the FARC. The video of the men exchanging warm handshakes and slaps on the back was broadcast at a press conference in Bogotá to announce the upcoming Caguán negotiations. This was the first meeting between a Colombian President and the leader of the FARC. It was also heavily publicised and took place even before the President was sworn in or before actual negotiations with the armed group were initiated.

In stark contrast, in September 2012, as the news leaked that President Juan Manuel Santos was leading exploratory talks with the FARC, he was forced to make a public announcement. At a podium in the Casa de Nariño, flanked by his military high command, President Santos announced the signature of a framework agreement between the Colombian government and the FARC. This framework agreement, signed between the Colombian government and the FARC on 26 August 2012, which set the stage for the Havana negotiations, was the culmination of a two-year secret pre-negotiation process. It included six agenda points and set the ‘end of the conflict’ as the overarching objective of the negotiations. It would take another two years for a public handshake to take place between President Santos and Rodrigo Londoño, then leader of the FARC.

These contrasting images illustrate the gulf between the two sets of pre-negotiations, particularly in terms of de-vilification processes. Understanding these processes is the central concern of this chapter. It examines how the international proscription of the FARC affected the processes of vilification and de-vilification between the Colombian government and the armed group. It does so by comparing these (de)vilification processes before and after the FARC was proscribed as a ‘terrorist’ organisation.

In Chapter 4 it was noted that (de)vilification is a two-way process. This chapter explores that dynamic by mapping and analysing the representations each conflict party – the Colombian government and the FARC - made of the other. The chapter examines the language used, the associations made and how that has evolved at different moments and over time during the two pre-negotiation phases leading up to the Caguán and Havana negotiations. The chapter analyses twenty years of statements and communiqués by successive Colombian governments and the FARC and triangulates this with interview data.

Pre-negotiation, as we saw in Chapter 4, requires changing the public image of the adversary. Both parties need to be de-vilainised in a public and credible way. The central components of this process identified in Chapter 4 include the recognition of the conflict and their opponent, showing a certain amount of respect and recognition for each other, acknowledging a level of rationality, recognizing each other's political agenda, appreciating each other's humanity and lastly conceding that the other can change.

This chapter argues that before proscription each conflict party was able to react to opportunities fluidly and shift language – the key indicator of the degree of vilification - accordingly. Following proscription, de-vilification gets stickier as shifting the characterisations becomes harder and takes more time. This is especially true of the government, which, having vilified its opponent in an extreme way, cannot simply switch directly to de-vilification. First it has to normalise its vilification – a concept described in Chapter 4 as a 'linguistic ceasefire'. This has three main components: 1) recognise the conflict; 2) drop the 'terrorist' label and 3) uncouple the act and the actor.

Looking first at the pre-negotiation processes that led to the Caguán negotiation (1999-2002) between the Colombian government and the FARC, in a pre-proscription era, allows us to analyse a 'normal' context and how both parties went about de-vilifying each other. Then the chapter analyses how proscription affected vilification on both sides, before looking at the lead-up to the Havana negotiation (2012-2016), which allows us to analyse a post-proscription context, and how this affected vilification and the de-vilification process as well as the onset of the negotiations. First, however, it is necessary to outline a brief

background to the dominant narratives produced by both sides before President Pastrana came to power.

I. Background

Picking-up the thread from the brief background on the Colombian conflict sketched out in Chapter 1, we see that the international understanding of the FARC has evolved over time and been deeply influenced by the US. There have been three, sometimes overlapping, international frameworks that have dominated the understanding of the Colombian conflict: 1) the Cold War, 2) the War on Drugs and 3) the War on Terror. But while the international portrayal of the FARC shifted, in Colombia it stayed broadly the same. Since emerging in the early 1960s and during the period leading-up to 9/11, the portrayal by the government of the FARC varied of course from government to government but it stayed broadly consistent.

The FARC were portrayed as a classic enemy by the Colombian government: violent and illegitimate. Looking at the statements across the administrations of President César Gaviria (1990-1994) and President Ernesto Samper (1994-1998) for example, we can see the efforts at vilifying the group mainly focused on categorising its violence as illegitimate describing “violent acts”, “subversion” and “practices that are contrary to norms”⁴¹ such as the use of “mines”, “torture” and the recruitment of “minors”⁴² and at other times even as “terrorism”.⁴³ Successive Colombian Presidents explicitly condemned the FARC’s methods but refrained from vilifying the organisation itself as ‘narco-terrorist’ or ‘terrorist’ focussing instead on vilifying the actions and the behaviour of the group.

Similarly, the FARC vilified successive governments characterising them as “militaristic” and waging an “integral war”⁴⁴ or as “illegitimate”.⁴⁵ As the violence against them intensified, they increase their vilification too, using words

⁴¹ Samper, E. 1994, ‘Mensaje del Presidente Ernesto Samper con ocasion del día nacional de los derechos humanos’, 9 September. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, p.103.

⁴² Ibid, pp.108-109.

⁴³ Gaviria, C. 1991, ‘Se ha deteriorado el diálogo’, 11 July.

⁴⁴ FARC-EP, 1992, ‘Comunicado CGSB’, 17 October; FARC-EP, 1992, ‘Nueva constituyente para salir del caos’, 9 November; FARC-EP, 1993, ‘Mensaje al parlamento Colombiano’, 1 February; FARC-EP, 1993, ‘Circular interna FARC-EP’, 19 February.

⁴⁵ FARC-EP, 1996, ‘El mandato Samper-de la Calle es ilegítimo: el president debe renunciar’, February.

such as “terror”⁴⁶, “military terror”⁴⁷ or “fascist legislation”⁴⁸. The FARC, appeared to have used increasingly vilifying language the more they felt under military pressure, during the Gaviria administration, for example, and softened their discourse at times when negotiations appeared possible with Samper and then later with Pastrana.

Similarly, when governments were paving the way for possible negotiations the tone would shift and the FARC would be portrayed as an actor that could be engaged with. These shifts were always fluid. President Samper for example recognised the “armed conflict”⁴⁹ and talked of the need for “peace”, “dialogue”, “peace policy” and a “negotiated solution”.⁵⁰ He also showed a certain level of recognition for the organization by using its acronym “FARC”.⁵¹ Government documents also referred to the group by its full acronym of “FARC-EP”⁵² and acknowledged hierarchies within the group by mentioning for example “guerrilla leaders”⁵³.

Both parties vilified each other during periods of armed confrontation and then de-vilified one another as the possibility of negotiations drew nearer. This appears to confirm much of the literature on (de)vilification. Though it was only under President Pastrana that a full de-vilification of the FARC took place ahead of the Caguán negotiations.

⁴⁶ FARC-EP, 1993, ‘Por la paz un nuevo gobierno de reconciliación’, 4 August.

⁴⁷ FARC-EP, 1996, ‘Pueblo Colombiano: A la carga!’, 7 October.

⁴⁸ Ibid.

⁴⁹ Samper, E., 1994, ‘Mensaje del Presidente Ernesto Samper con ocasión del día nacional de los derechos humanos’.

⁵⁰ Samper, E., 1994, ‘Discurso de posesión’, 7 August. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, pp.101-102.

⁵¹ Samper, E., 1995, ‘Presentación del Segundo informe sobre el estado del proceso de paz’, 18 May. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, p.149.

⁵² Office of the High Commissioner for Peace, 1996, ‘Estado del conflicto político armado y su solución negociada, hacia un diálogo útil y duradero, documento de trabajo’, Melgar-Tolima, 26-28 November. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, p.111; Holmes Trujillo, C., 1995, ‘Segundo informe del Alto Comisionado para la paz: estado del proceso de paz’, 18 May. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, p.143.

⁵³ Botero, F. and C. Holmes Trujillo, 1995, ‘Suspensión de recompensas por jefes guerrilleros’, 7 June. In A. Villarraga Sarmiento (Ed.) *En ausencia de un proceso de paz: Acuerdos Parciales y Mandato Ciudadano por la Paz*, Biblioteca de la Paz 1994-1998, Tomo IV: Bogotá, Colombia, p.150.

II. From ‘violent group’ to ‘insurgents’: the (de)vilification of the FARC in the lead-up to the Caguán negotiations

During the presidential election campaign of 1998 the prospect of peace negotiations became a prominent issue. Candidate Andres Pastrana took note of the burgeoning peace movement in Colombia and made the search for a negotiated settlement a central platform of his 1998 presidential campaign (Arnson 2000).⁵⁴ In his inaugural speech he is very explicit about his government’s ambitions for peace. He says he “wants peace” and will show an “unwavering leadership to build peace”.⁵⁵ There is no ambivalence in the government’s de-vilification of the armed group either. The shift is immediate. President Pastrana demonstrates a clear recognition of the conflict, characterising it as an “internal conflict”⁵⁶ and an “armed conflict”⁵⁷. Right from the start, Pastrana started de-vilifying the FARC through the language he used to qualify and describe them. He recognised the group as an opponent by calling the FARC an “insurgent force”⁵⁸, the “insurgency”⁵⁹, a “subversive group”⁶⁰, the “guerrilla”⁶¹ or an “armed group”⁶². His choice of words tended to highlight the rebellious and political nature of the organization rather than their violent behaviour. Pastrana also showed a deep recognition of the FARC as an organisation and its leadership functions. He talked of the “guerrilla

⁵⁴ Victor G Ricardo, Former High Commissioner for Peace, *Personal interview*, October 2015, Bogotá, Colombia.

⁵⁵ Pastrana, A., 1998, ‘Una Colombia en Paz’, Discurso de Posesión del Presidente Andrés Pastrana Arango, 7 August. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.123.

⁵⁶ Pastrana, A., 1998, ‘Diplomacia por la Paz’, Palabras del Presidente Andrés Pastrana, XII Cumbre de Jefes de Estados y gobierno, países no alienados, 2 September. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.127.

⁵⁷ Presidencia de la República, 1998, ‘Plan Colombia, document de la Presidencia de la República’, October. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.130.

⁵⁸ Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.124.

⁵⁹ Ibid, p.124-125;

⁶⁰ Pastrana, A., 1998, ‘El Plan Colombia: Alianza con el mundo contra el delito, por los derechos humanos, los derechos sociales y la ecología’, 22 October. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.129.

⁶¹ Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August.

⁶² Pastrana, A., 1998, ‘Apoyo internacional para conseguir la paz, intervención del presidente Andrés Pastrana’, UN General Assembly, 23 September. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.128.

⁶² Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August.

commanders”⁶³, the “top leaders of the FARC –EP”⁶⁴, the “heads of the guerrillas”⁶⁵ or the “FARC Secretariat”⁶⁶. He even expressed respect for the organization when he described them as the “oldest guerrilla group”⁶⁷.

In the lead-up to the Caguán negotiations, he spent some time in his speeches highlighting the FARC’s political agenda. He explicitly recognized the political nature of the organisation and its ideas by saying that the “guerrilla movement is a political reality”.⁶⁸ He also argued that “It is time to take the agenda of the guerrilla seriously, as a condition to break the Gordian knot of lack of trust”.⁶⁹ From interviews it is clear that this is a point that was fundamentally important for the FARC.⁷⁰ The FARC had wanted a formal status - a belligerent status - ahead of the Caguán negotiations.⁷¹ There were extensive discussions about it at the time (Villarraga Sarmiento 2009). Short of that, they expected “political recognition”.⁷² This de-vilification had both inter-party and intra-party objectives. By making this recognition so explicit in his discourse, President Pastrana was not only directly signalling his seriousness towards the FARC, he was also shifting the image of the FARC vis-à-vis public opinion and detractors in his own camp.

Pastrana went to some length to convince the Colombian people and sceptics in his government that the FARC was a partner they could do business with. He said they had shown “seriousness and credibility”⁷³ and that it was “possible to dialogue” with them.⁷⁴ He went further by describing the FARC as a partner for change implying a certain degree of trust and humanization claiming

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Pastrana, A., 1998, ‘Espacio para la paz: he ordenado el despeje’, 14 October. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.158.

⁶⁷ Pastrana, A., 1999, ‘La paz es invertir en humanidad, desarrollo y bienestar’, Words to the European Parliament, Strasburg, 26 October. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.141.

⁶⁸ Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August.

⁶⁹ Ibid.

⁷⁰ Marcos Calarcá (Luis Alberto Albán Burbano), Member of the FARC negotiation team and International Secretariat, *Personal interview*, May 2015, Havana, Cuba; Carlos Lozano, Director of *Semanario Voz* and Member of the Communist Party, *Personal interview*, May 2015 Bogotá, Colombia.

⁷¹ Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba; Diego Martinez, Lawyer for the FARC negotiation team, *Personal interview*, October 2015, Bogotá, Colombia.

⁷² Carlos Lozano, *Personal interview*, October 2015, Bogotá, Colombia.

⁷³ Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August.

⁷⁴ Pastrana, A., 1998, ‘El Plan Colombia: Alianza con el mundo contra el delito, por los derechos humanos, los derechos sociales y la ecología’, 22 October.

they were “co-protagonists in the national reconstruction”.⁷⁵ Pastrana’s attempts at humanizing the FARC started even before he was sworn in as President when he met personally with their leader, Manuel Marulanda, and ensured that images of the two shaking hands were widely distributed, as we saw in the opening paragraph of this chapter. Victor G Ricardo, advisor to Pastrana during his election campaign and later High Commissioner for Peace, who instigated and was present at that meeting between the two leaders, confirmed that Pastrana and Marulanda agreed during this meeting to initiate the peace talks within 90 days of Pastrana taking office.⁷⁶

During the whole pre-negotiation phase President Pastrana focused intently on de-vilifying the FARC. All the six components of de-vilification were present - he showed respect and recognition towards the armed group, recognized the conflict, argued that they are trust-worthy, rational and human and that negotiating with them is possible. He acknowledged their nature as a political opponent, and very explicitly encouraged change by staking his political capital on initiating a peace negotiation with the FARC. He was able to make this shift immediately, directly and very explicitly.

The FARC also went to some length to de-vilify the Pastrana government. In their communications, they address him in a formal and respectful way using phrases like “Mister President”⁷⁷, “President of the Republic”⁷⁸ or “President Pastrana”⁷⁹. Once he was in office, they highlighted the pre-electoral encounters between Pastrana, his team and the FARC leadership and highlighted the President’s commitments vis-à-vis the FARC using words like “promise”⁸⁰ and quoting sections of his pre-elections speeches in their own communications.⁸¹ This showed willingness on the part of the FARC to portray Pastrana as an individual they could do business with.

The FARC portrayed Pastrana as a man of his word who can be trusted. In a statement published by the international section of the FARC from Mexico, after

⁷⁵ Pastrana, A., 1998, ‘De la retórica de la paz a los hechos de paz’, 11 August.

⁷⁶ Victor G Ricardo, Former High Commissioner for Peace, *Personal interview*, October 2015, Bogotá, Colombia.

⁷⁷ FARC-EP, 1998, ‘Comunicado’, Dialogue Commission of the FARC-EP, Raúl Reyes, Joaquín Gómez, Fabián Ramírez, Mountains of Colombia, 12 July.

⁷⁸ FARC-EP, 1998, ‘Comunicado’, Raúl Reyes, Joaquín Gómez, Fabián Ramírez, Mountains of Colombia, 24 November.

⁷⁹ FARC-EP, 1998, ‘Comunicado público’, International Commission of the FARC-EP, Mexico City, 31 July.

⁸⁰ FARC-EP, 1998, ‘Comunicado’, 12 July.

⁸¹ FARC-EP, 1998, ‘Comunicado’, 24 November.

the first encounter between president-elect Pastrana and the FARC leadership, they wanted to “highlight” the:

Remarkable seriousness and political will of President Pastrana, by fulfilling the commitment he made to the Colombian people in the election campaign to personally meet with the leadership of the FARC-EP, in the search for peace.⁸²

In the same statement, the FARC also made inroads into attempts at de-vilifying themselves by describing their “determined will for peace” and highlighting their political rather than violent characteristics.⁸³ They described themselves as “armed political opposition to the governing system”.⁸⁴ This statement also implied their fight is not with this specific government but with the regime and in that context they continued to express strong criticism of the “State” and the “establishment”.⁸⁵ This uncoupling of the particular government and the State, can be understood in the context of the FARC intra-party dynamics. It was a way for the leadership of the armed group to reassure their own group and constituency that change was possible with this particular government even if they remained critical of the broader establishment.

The shift in discourse ahead of the Caguán negotiation between President Pastrana and the FARC was unimpeded by constraints and was both radical and reciprocal. This confirms much of the literature on the importance of de-vilification ahead of negotiations. Both sides succeeded in de-vilifying each other in their language and characterisation by showing recognition, respect, rationality and even trust, acknowledging each other’s political agenda, humanizing each other and creating the possibility for change to happen.

III. Just ‘terrorists’: the extreme vilification of the FARC

9/11 and the attack against the World Trade Centre happened at the tail end of the Caguán negotiations. Though the FARC had been listed as a Foreign Terrorist Organisation by the US since 1997, the developments following 9/11 gave this a whole new meaning which had deep symbolic and material consequences in

⁸² FARC-EP, 1998, ‘Comunicado publico a extranjeros y colombianos’, Mexico City, International Commission of the FARC-EP, 12 July. In V. E. González Mantilla, *Discursos de la Guerra en Colombia 1998-2005*, Bogotá: Universidad Externado de Colombia, p.35-36.

⁸³ Ibid, p.35.

⁸⁴ Ibid, p.36.

⁸⁵ FARC-EP, 1998, ‘A la comunidad nacional e internacional’, International Commission of the FARC-EP, Mexico City, December.

Colombia. In this chapter the focus will be on the symbolic effects as they are the most relevant when it comes to (de)vilification processes, though as we saw in Chapter 4 the symbolic and the material are deeply intertwined.

After 9/11, symbolically, the Colombian conflict was subsumed in the broader War on Terror. The FARC were integrated in the group of ‘enemies’ against which the global war was being fought. As Secretary of State Colin Powell said in October 2001:

There’s no difficulty in identifying [Bin Laden] as a terrorist, and getting everybody to rally against him. Now, there are other organizations that probably meet a similar standard. The FARC in Colombia comes to mind, the Real IRA comes to mind, all of which, both of which are on our terrorist list down at the State Department.⁸⁶

The impact of 9/11 on the assemblage of heterogeneous armed groups and thus the productive nature of proscription quickly becomes apparent. The US administration no longer characterised the FARC as narco-guerrillas but starts linking them with other listed entities or the broader Islamic fundamentalist threat, eventually deploying the language of ‘narco-terrorists’. One Colombian civil society activist described how the narrative started shifting: “The fact that Bush in the US starts to merge a discourse of fundamentalism Islam to Colombia, imports a discourse that assimilates narco-guerrillas to Islamic fundamentalists. They try to show the links [of the FARC] with Palestinians, then with ETA.”⁸⁷

This post-9/11 re-framing in the US was also felt deeply in Colombia. As one analyst, who has followed the conflict for forty-five years, said to me “I have the impression that the 11th September had an impact. It marked a change, it linked what happens here [in Colombia] to what happens there [in the US].”⁸⁸ But the Colombian government was not a passive recipient of this change, rather it was seen as an opportunity to convert the armed conflict into a war against terrorists.⁸⁹ As Borda (2010: 135) argued, it was a strategy of internationalising

⁸⁶ Wright, J., 2001, ‘Powell Sees ‘Gray Areas’ in Defining Terrorism’, *Reuters*, 25 October, Washington D.C.

⁸⁷ Rosa Emilia Salamanca, Executive Director of Corporación de Investigación y Acción Social y Económica (CIASE) in Colombia, *Personal interview*, October 2015, Bogotá, Colombia.

⁸⁸ Fernán González, Coordinator of the Peacebuilding and Development Programme at CINEP/ Programa por la Paz, *Personal interview*, June 2015, Bogotá, Colombia.

⁸⁹ *Ibid.*

the conflict, which allowed the government to strengthen its military and political position vis-à-vis the armed groups.⁹⁰

In his first major allocution following 9/11 there was a radical change in President Pastrana's tone as he referred to the FARC. He linked the FARC to the global scourge of terrorism "Colombia, which has been a victim like few countries of terrorist action is already part of the global fight against this scourge."⁹¹ There was a clear and deliberate shift in strategy (Borda 2010). From then on his speeches contained regular mentions of the word "terrorist", or "terrorism". Previously, most of the focus is on describing the actions of the FARC as "terrorist" rather than the group itself.⁹² But in the speech he gave in February 2002 that put an end to the peace negotiation and the demobilized zone, Pastrana used the root "terror" seven times, under the forms of "terrorism", "terrorist attack" and "international terrorists".⁹³ And it is President Pastrana who convinced the EU to include the FARC in its list of terrorist organisations (2014).

Once the negotiations with the FARC were terminated in 2002, this trend continued unabated. One interviewee described the evolution:

After the rupture of the talks, the use of the word 'terrorist' is generalised. Before the army did use it but not the members of government. Then, after Pastrana used it in his speech for the first time, Camilo Gomez and others started qualifying the guerrilla as terrorist and pushing for the US and then the EU to keep FARC included in lists.⁹⁴

The election of President Alvaro Uribe in 2002 embedded this characterisation. President Uribe argued that there was no armed conflict in Colombia, just violence against a democracy, which should be considered terrorism. In his memoirs, he explained why he always refused to consider the FARC and other "illegal groups" as "insurgents" or "guerrillas" (Uribe 2012:58). He said: "What in Latin America suggested a virtuous struggle against a repressive military regime, did not apply to Colombia, where these groups were

⁹⁰ This is similar to what Álvaro Méndez (2012) argued in the case of Plan Colombia in his LSE PhD dissertation.

⁹¹ Pastrana, A., 2002, 'Alocución radiotelevisada del Presidente Andrés Pastrana: no cederemos en los controles, las FARC no quieren negociar', Bogotá, 9 January. In A. Villarraga Sarmiento (Ed.) *Diálogo, negociación y ruptura con las FARC-EP y con el ELN*, Biblioteca de la Paz 1998-2002, Tomo V: Bogotá, Colombia, p.265.

⁹² Ibid.

⁹³ Pastrana, A., 2002, 'Texto de la alocución del Presidente Andrés Pastrana', 20 February, Bogotá, Colombia.

⁹⁴ Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia.

trying to destroy democracy.” (Uribe 2012:58). The political dimension of the conflict or any attempts to understand the history, social realities, root causes or grievances in the country were subsumed in the war on terror.⁹⁵ President Uribe set out to change international and national perception of the conflict and security situation in Colombia.⁹⁶ This became increasingly prominent from 2005 onwards. Uribe focused on convincing the media not to talk about an “armed conflict” and categorise the FARC as a simple delinquent and terrorist organisation (Pécaut 2008).

This idea that the FARC should be considered “terrorists” because they attack a “democracy” became the bedrock of his narrative.⁹⁷ Uribe drew a parallel with European democracies under attack of terrorism post 9/11, and argued that, because the FARC are “terrorists”, other countries should not support the FARC.⁹⁸ President Uribe set about reframing the understanding and perception of the Colombian conflict; there is no armed conflict. In a speech in 2005 to the diplomatic corps in Colombia he explained, there is “no conflict”, so there are “no combatants”, only “terrorists”.⁹⁹ For example, in September 2006 during the UN General Assembly he said:

For us, armed violence with fictitious political motives is terrorism and security is the path to peace. When there is a pluralist, vigorous democracy with guarantees, armed action against it is pure terrorism. Denying it would mean there is no difference between armed combat against dictatorships (...) and violent aggression suffered by our democracy, aggression that is terrorism.

One high-ranking UN diplomat said the international community was under intense pressure to stop describing the situation in Colombia as an armed conflict: “We had to adapt in terms of language, we needed to do a certain amount of self-

⁹⁵ Hector Fabio Henao, Director, Pastoral Social, *Personal interview*, January 2014, by phone; Virginia Bouvier, Director of the Colombia Program, United States Institute for Peace (USIP), *Personal interview*, February 2014, Washington D.C.

⁹⁶ Gimena Sánchez-Garzoli, Senior Associate for Colombia, Washington Office on Latin America (WOLA), *Personal interview*, April 2014, Washington D.C.

⁹⁷ Uribe, Á., 2002, ‘Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social’, Bogotá, 7 August.

⁹⁸ Uribe, Á., 2003, ‘Declaración del Presidente Álvaro Uribe Vélez tras atentado en el Nogal’, Bogotá, 8 February; Uribe, Á., 2003, ‘Discurso ante la corte interamericana de derechos humanos, San José de Costa Rica, Costa Rica, 19 June; Uribe, Á., 2004, ‘Saludo al cuerpo diplomático acreditado en Colombia, Bogotá, 22 January; Uribe, Á., 2004, ‘Intervención ante el pleno del parlamento europeo’, Strasburg, France, 10 February; Uribe, Á. ‘Palabras del President Uribe en la session inaugural de la 38 Asamblea General de la OEA, Medellín, Antioquia, 1 June; Uribe, Á., 2006, ‘Intervención del Presidente Álvaro Uribe Vélez: nuestro caso es una acción terrorista contra la democracia’, Cátedra Colombia y aniversario de la escuela superior de Guerra, Bogotá, 5 May.

⁹⁹ Uribe, Á., 2005, ‘Saludo al cuerpo diplomático acreditado en Colombia’, Bogotá, 31 January.

censorship, we found a consensus by using language that referred to the violence without talking of the armed conflict.”¹⁰⁰ But this shift in discourse also had material consequences. Refugees and populations displaced by the armed conflict, for example, started being described as economic migrants (Idler and Paladini 2015).

What was also striking in President Uribe’s major speeches is that he did not even mention the FARC by name. In his inauguration speech, or later in allocutions he made to the Colombian Congress, he never used the acronym FARC nor did he use their full name.¹⁰¹ Their sheer absence from discourse rendered them politically insignificant. By erasing the FARC from official discourse and merging them into an amorphous “terrorism” threat he showed that he had no respect for them and that no one else should either because they are irrational, barbarous and not human. This extreme vilification was compounded by the sheer number of times Uribe choose to use the word with the root “terror” to describe them. Under the variants “terror”, “terrorism”, “terrorist”, “terrorists” and “antiterrorist” he uses the term 59 times in a speech in 2003.¹⁰² Though the use of the word was particularly frequent at the beginning of his first mandate, he continued to use it systematically throughout his two presidential terms. For example, in his Christmas message to the Colombian people¹⁰³ in 2009 he used it five times and right at the end of his second mandate, during the installation of Congress¹⁰⁴, he used it nineteen times.

Intrinsic to this portrayal of the FARC is the de-politicisation of the armed group. Uribe painted them as a group that has no political arguments and is merely criminal. He said for example “These cynics of violent groups continue to ask for international audiences to speak like politicians when they are miserable terrorists”¹⁰⁵. At the centre of this de-politicisation is the link between FARC and

¹⁰⁰ Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

¹⁰¹ See for example Uribe, Á., 2002, ‘Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social’, Bogotá, 7 August; Uribe, Á., 2004, ‘Instalación de las sesiones ordinarias del Congreso de la República, periodo 2004-2005’, Bogotá, 20 July; Uribe, Á., 2005, ‘Instalación de las sesiones ordinarias del Congreso de la República 2005 – 2006’, Bogotá, 20 July.

¹⁰² Uribe, Á., 2003, ‘Discurso del president Álvaro Uribe en la posesión del Nuevo comandante de la FAC’, 19 September.

¹⁰³ Uribe, Á., 2009, ‘Mensaje de Navidad del Presidente de la República, Álvaro Uribe Vélez’, Puerto Ospina, Putumayo, 24 December.

¹⁰⁴ Uribe, Á. 2010, ‘Palabras del Presidente de la República, doctor Álvaro Uribe Vélez, durante la instalación del Honorable Congreso de la República’, Bogotá, 20 July.

¹⁰⁵ Uribe, Á., 2003, ‘Discurso ante la Corte Americana de derechos humanos’, 19 June.

drugs.¹⁰⁶ Drugs and terrorism become two sides of the same coin. He said “the only reason for terrorism is the drugs business”¹⁰⁷, using the mirror image by saying that the “violence” in Colombia, which is funded by “drugs”, is “terrorism”.¹⁰⁸ He called them a “terror and drugs cartel”.¹⁰⁹ By 2009 Uribe made direct parallels between the FARC and “bandits” like Pablo Escobar.¹¹⁰ According to one civil society activist, the merging of the ‘narco’ and ‘terrorist’ labels is what did the most damage to the FARC’s political standing:

For many people the term narco is stronger than being terrorist because narcotrafficking has caused so much pain in Colombia. You will find that for many people it means the same thing, narco and terrorist are equivalent.¹¹¹

Unlike previous presidents pre-9/11, who used the word terrorist to describe some actions committed by the FARC, Uribe used it to describe the FARC itself, as a “terrorist group”¹¹² or “terrorist organization”¹¹³. By doing so, he implied point blank that no change was possible because they are just terrorists. In his language he also drew parallels with Nazism. He put the FARC’s hostage taking in parallel with Nazi concentration camps.¹¹⁴ This amalgamation with a regime that committed the most heinous crimes against humanity served to portray the FARC as an organisation without principles. Furthermore, he stated that no

¹⁰⁶ This idea was also given credence with the popularity of the ‘greed and grievance’ literature popular at that time. Economists Paul Collier and Anke Hoeffler (1998, 2004) argued that insurgents were mainly motivated by ‘greed’, i.e. economic profiteering, rather than socio-political grievances. This academic debate got much policy attention and was used by leaders in their attempts to depoliticise political violence.

¹⁰⁷ Uribe, Á., 2009, ‘Intervención del Presidente de la República, Álvaro Uribe Vélez, en la 64 Asamblea General de la Organización de las Naciones Unidas’, New York, 23 September.

¹⁰⁸ Uribe, Á., 2002, ‘Retomemos el lazo unificador de la ley’, 7 August; Uribe, Á., 2004, ‘Intervención ante el pleno del parlamento europeo’, Strasbourg, France, 10 February; Uribe, Á., 2004, ‘Visita del presidente de Estados Unidos de América George Bush’, Cartagena de Indias, 22 November; Uribe, Á., 2008, ‘Palabras del Presidente Uribe en el foro ‘Seguridad, dolor evitable’, Santa Marta, 13 June.

¹⁰⁹ Uribe, Á., 2004, ‘Mensaje de año nuevo, alocución presidencial’, Serranía de Chiribiquete, Guaviare 31 December.

¹¹⁰ Uribe, Á. 2009, ‘Declaración del Presidente Álvaro Uribe sobre sindicalistas, Farc e indígenas’, Samacá, Boyacá, 14 February.

¹¹¹ Rosa Emilia Salamanca, *Personal interview*, October 2015.

¹¹² Uribe, Á., 2003, ‘Intervención del Presidente Álvaro Uribe sobre la muerte del gobernador de Antioquia, su consejero de paz y miembros de la fuerza pública: Las FARC cometieron massacre, condiciones para el acuerdo humanitario’, Medellín, Antioquia, 5 May. In A. Villarraga Saramiento (Ed.), *Gobierno-FARC: ni diálogo de paz ni “canje” humanitario. Propuestas de acuerdo humanitario*. Biblioteca de la Paz 2002-2010, Tomo VIII: Bogotá, Colombia, pp.141-143.

¹¹³ Uribe, Á., 2004, ‘Mensaje de Año Nuevo’, 31 December; Uribe, Á., 2005, ‘Reinserción de 22 guerrilleros de las FARC’, Cali, Valle del Cauca, 31 July; Uribe, Á., 2005, ‘Saludo al cuerpo diplomático’, 31 January.

¹¹⁴ Uribe, Á. 2007, ‘Palabras del President Uribe en la tercera conferencia internacional sobre Colombia, Bogotá 30, November.

“appeasement”¹¹⁵ was possible with the FARC and says that Colombia had suffered a “dictatorship of terrorism”.¹¹⁶ When the FARC started unilaterally releasing hostages in 2008 he refused to acknowledge them or their gesture and said “terrorists cannot be thanked”¹¹⁷, implying that the group was completely irrational and could not be trusted.

President Uribe took the vilification of the FARC to a whole new level, over his two terms in office (see Table 7). By denying the existence of the armed conflict and labelling the FARC terrorists nationally and internationally, he succeeded in portraying them as de-politicised, irrational, without principles, a bunch of criminals for whom change is not possible. This made the idea of political negotiations with the group unfathomable in the eyes of the public.

Table 7. Proscription and extreme vilification in Colombia

Vilification	Extreme vilification: the terrorist label	Modalities of practice in Colombia
Enemy	No conflict/ no enemy/ criminal/ de-contextualise	“no conflict”, “no combatants” “terrorists”
No respect	Demonization/absence	Absence/no mention by name
Untrustworthy	Irrational	“terrorists cannot be thanked”
Illegitimate	De-politicises / criminal / no cause	“terror and drug cartel” “narco-terrorists”
Violent	Not human/ without principles / barbarous	“Nazi concentration camps”
Actions condemned	Act and actor one and the same - no change possible	“No appeasement possible”

¹¹⁵ Uribe, Á., 2008, ‘Mensaje de año nuevo del Presidente Álvaro Uribe Vélez a los colombianos’, Caimito, Sucre, 31 December; Uribe, Á., 2009, ‘Palabras del presidente en la tercera entrega de indemnizaciones por vía administrativa a víctimas de la violencia’, Medellín, Antioquia, 26 July.

¹¹⁶ Uribe, Á., 2005, ‘Rueda de prensa: Presidentes Uribe y Bush desde Crawford, Crawford, Texas, 4 August.

¹¹⁷ Uribe, Á. 2010, ‘Palabras del Presidente Uribe durante las exequias del teniente coronel Julián Ernesto Guevara Castro’, Bogotá, 5 April.

The FARC responded to President Uribe's discourse with matching vilification. They never used the title of "President" when mentioning or addressing him, they merely say "Uribe" or "Álvaro Uribe".¹¹⁸ This was a significant departure to the way the group had addressed President Pastrana and illustrated that they had very little respect or recognition for Uribe. Over the two terms of his presidency the language used to describe both President Uribe and his government was consistently negative and vilifying. They describe him as a "paramilitary"¹¹⁹, a "fascist"¹²⁰. The words "fascist"¹²¹, "terror"¹²² or "military terror"¹²³ were used regularly to typify government policy illustrating a form of reciprocal extreme vilification. The FARC demonized the Uribe administration implying it was without principles and irrational. The FARC also made regular references to the US's role in Colombia, calling it "neo-colonial"¹²⁴, "US imperialism"¹²⁵, and "US intervention", implying a country that was "occupied"¹²⁶ and in a subservient relationship towards the US, effectively implying it was illegitimate.

The reaction of the FARC against being labelled as 'terrorists' was very strong in the early years of the Uribe administration, fitting neatly in the category of stigma 'rejection' in Adler-Nissen's (2014) typology. The FARC demanded that the State and the government "exclude from the language of officials epithets of 'terrorists and narco-terrorists' to refer to our organisation of political-military

¹¹⁸ FARC-EP, 2004, 'Comunicado', Secretariado del Estado Mayor Central, FARC-EP, Montañas de Colombia, 24 February; FARC-EP, 2009, 'Comunicado', Compañía Alfredo Gonzalez FARC-EP, no date; FARC-EP, 2010, 'Comunicado', Pablo Catatumbo, Jefe del Movimiento Bolivariano por la Nueva Colombia, 29 April.

¹¹⁹ FARC-EP, 2004, 'Comunicado', 24 February; FARC-EP, 2005, 'Comunicado', Secretariado del Estado Mayor Central, FARC-EP, Montañas de Colombia, 25 February.

¹²⁰ FARC-EP, 2004, 'Comunicado', 24 February; FARC-EP, 2009, 'Es Primero de mayo!', Estado Mayor Central FARC-EP, Montañas de Colombia, 1 May.

¹²¹ FARC-EP, 2003, 'Comunicado del Secretariado de las FARC-EP: proceso de paz pero con un gobierno dispuesto a concertar', Montañas de Colombia, 12 July. In A. Villarraga Saramiento (Ed.), *Gobierno-FARC: ni diálogo de paz ni "canje" humanitario. Propuestas de acuerdo humanitario*. Biblioteca de la Paz 2002-2010, Tomo VIII: Bogotá, Colombia, p.103-104 (103); FARC-EP, 2009, 'Fascismo a la Criolla', Estado Mayor Central FARC-EP, Montañas de Colombia, 9 May.

¹²² FARC-EP, 2004, 'Comunicado', 24 February; FARC-EP, 2008, 'Comunicado', Bloque Iván Ríos y Martín Caballero de las FARC, Montañas de Colombia, 31 August.

¹²³ FARC-EP, 2010, 'Carta abierta a Señor Freddy Padilla de León', Jorge Suárez Briceño, Integrante del Secretariado del Estado Mayor Central, Montañas de Colombia, January (no date).

¹²⁴ FARC-EP, 2004, 'Comunicado', Secretariado del Estado Mayor Central, FARC-EP, Montañas de Colombia, 13 July.

¹²⁵ FARC-EP, 2004, 'Secuestro en centro de Caracas', Secretariado del Estado Mayor Central, Montañas de Colombia, 30 December.

¹²⁶ FARC-EP, 2010, 'Comunicado', Secretariado del Estado Mayor Central, FARC-EP, Montañas de Colombia, 21 June; FARC-EP, 2010, 'Memorando del Secretariado de las FARC-EP: el conflicto Colombiano, siempre hemos creído en una salida política' 22 February.

opposition against the State”.¹²⁷ In April 2003, they decried the usage of “pugnacious language” and “improper epithets” to describe them.¹²⁸ They resisted and rejected the label and offered a counter narrative, describing their struggle as the “universal legitimate use of the right to revolt”.¹²⁹

According to James Lemoyne, the second UNSG Special Envoy to Colombia (2002-2005), the FARC took the labelling as a ‘terrorist’ organization by the international community seriously. It was not so much the material aspect they were bothered with but it was the symbolic elements, particularly the loss of legitimacy - they did not want to be listed (cited in Powell 2014). Following the inclusion of the FARC in the EU terrorist list, the FARC’s first reaction was to refuse to meet with any EU member states in protest at the new EU strictures against the FARC (International Crisis Group 2002).

This is corroborated in my interviews with the FARC. When asked how they reacted to being listed as ‘terrorists’, Marcos Calarcá, a member of the FARC negotiating team, responded:

First of all, what is terrorism? It is a reflection of this unipolar world in which the United States decided. There is not a definition of what is terrorism. We have been in the US list since September 1997, but nothing happened. We asked them to take us off the list. It is after 9/11 that it became relevant. Then the EU put us on the list under US pressure. (...) But what does it mean? (...) Our origin is legitimate – it is the right to rebellion. We are a consequence of our aggression. An aggression that was similar to what the war on terror is today.¹³⁰

Similarly, Alexandra Nariño, a member of the FARC negotiating team in Havana, said “Before we were narcotraffickers, then after the attacks on the twin towers they associated us with Al Qaeda. It is totally opposite to what we are, we are a political struggle”.¹³¹

However much the FARC resisted the label, it stuck. In short, the vilification became so extreme that President Uribe succeeded in excluding the FARC from the political landscape and de-legitimizing them. This is echoed in

¹²⁷ FARC-EP, 2002, ‘Comunicado del Secretariado de las FARC-EP: Condiciones propuestas al nuevo Presidente para retomar la solución política, Montañas de Colombia, 15 May; FARC-EP, 2002, ‘Comunicado’, Secretariado del Estado Mayor Central de las FARC-EP, Montañas de Colombia, 20 August.

¹²⁸ FARC-EP, 2003, ‘Carta abierta de las FARC-EP a los expresidentes liberales’, Secretariado del Estado Mayor Central de las FARC-EP, Montañas de Colombia, 27 April.

¹²⁹ FARC-EP, 2004, ‘Secuestro en centro de Caracas’, 30 December.

¹³⁰ Interview Marcos Calarcá, *Personal interview*, May 2015 Havana, Cuba.

¹³¹ Alexandra Nariño (Tanja Nijmeijer), Member of the FARC negotiating team, *Personal interview*, May 2016, Havana, Cuba.

the account of a high-level UN staff member working in Colombia during this period:

Before they [the FARC] could be seen as legitimate actors. Then the bombardment of language and propaganda changed the imaginary, identifying them as bandits, terrorists. Uribe succeeded in changing the minds of the middle classes. He won the cultural war. This was also helped on the part of the FARC by their increased involvement in drug trafficking and actions against populations, which gave the government very good arguments to diffuse this image.¹³²

The characterising of the FARC as terrorists both nationally and internationally also had concrete material consequences. Not only did it justify long-term and sustained war efforts, but it also de-legitimised the idea of dialogue politically. By using the same language they used internationally President Uribe made clear they were terrorists with whom the government would not negotiate.¹³³ First, if there is no conflict, just a fight against terrorists, then what would there be to negotiate? Second, if the FARC are nothing but ‘terrorists’ then how could they ever change? This shows how assigning one particular label can automatically exclude any other understanding of the armed group. The only options remaining were to win the war militarily, for the FARC to give themselves-up, or to subject them to justice through a demobilization process.¹³⁴ Political negotiations with the FARC remained outside of the options considered. Even if President Uribe wanted to initiate dialogue¹³⁵ he had created such a tight fitting policy straightjacket that it cut off any possibility of negotiating a peace agreement with the FARC.

IV. The path to Havana: the ‘linguistic ceasefire’ and the FARC

When President Juan Manuel Santos took office in August 2010 he was already considering the possibility of initiating peace negotiations with the FARC. But, according to his brother, Enrique Santos, who was closely involved in discussions during these initial stages, Santos was very aware that public opinion in Colombia

¹³² Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

¹³³ Padre Alberto Franco, Executive Secretary of the Comisión Intereclesial de Justicia y Paz (CIJP), *Personal interview*, October 2015, Bogotá, Colombia.

¹³⁴ Andrei Gómez-Suárez, Director of the Rodeemos el Diálogo (ReD) Foundation, *Personal conversation*, October 2015, Bogotá, Colombia.

¹³⁵ We now know that at the tail end of his mandate, President Uribe did in fact have an indirect exchange of letters between his High Commissioner for Peace and the FARC leadership via the same intermediary later used by President Santos (Acosta Patiño 2017; Frank Pearl, Former High Commissioner for Peace (*ad interim*) under President Uribe and government negotiator under President Santos, *Personal interview*, Bogotá, Colombia, 4 October 2015).

would be completely against it after eight years of extreme vilification during the Uribe government. As his brother noted, the question was “How does this government start talking with ‘narco-terrorists’?”¹³⁶

1. The ‘linguistic ceasefire’

President Santos was very aware that he could not suddenly embark in a negotiation with the armed group. This challenge was also picked-up by people following closely the dynamic at the time who commented that shifting perceptions when the armed group had actively been portrayed as ‘terrorists’ for years would be challenging. As the late Virginia (Ginny) Bouvier, head of the Colombia programme at the USIP, asked: “how to convince the public that the armed group can be negotiated with and can respond to rational thought?”¹³⁷

President Santos could not switch directly to de-vilifying the FARC. A step was needed in between. He was self-consciously aware that he first needed to shift back the description of the FARC to one of ‘normal’ vilification. Several of my interviewees, among which Ginny Bouvier, Carlos Velandia and Mauricio García-Durán, noted that from early 2011 President Santos had toned down the rhetoric towards the FARC considerably, mentioning the idea of a “ceasefire”¹³⁸ or a “disarming of words”.¹³⁹

This can be seen as an instance of a ‘linguistic ceasefire’. As set out in Chapter 4, there are three main components to the linguistic ceasefire: 1) recognition of the conflict; 2) dropping the terrorist label; and 3) uncoupling the act and the actor. Each of these will be explored in turn.

i. Recognition of the conflict

The bedrock of this shift was President Santos’ recognition of the armed conflict. Indeed, a major change in his discourse compared to President Uribe’s was that he explicitly recognized the existence of the armed conflict in Colombia. He talked about “conflict”¹⁴⁰, the “victims of the conflict”¹⁴¹ or “recognising the conflict”¹⁴².

¹³⁶ Enrique Santos, President Santos’ brother and government negotiator, *Personal interview*, Bogotá, Colombia, June 2015.

¹³⁷ Virginia Bouvier, *Personal interview*, February 2014.

¹³⁸ Ibid; Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, January 2014, by phone.

¹³⁹ Carlos Velandia, Former commander of the Ejército Nacional de Liberación (ELN) and appointed ‘Peace Manager’ by the Santos administration, *Personal interview*, June 2015, Bogotá, Colombia.

¹⁴⁰ Santos, J. M., 2011, ‘Palabras del President Juan Manuel Santos en el Foro legislar para la Paz’, Bogotá, 23 May.

He explicitly changed the language he used, stating for example in the press in May 2011 that “It has been a while that there is an armed conflict in this country”¹⁴³. He went even further than pure rhetoric by enshrining this description in law through the Law on Victims and Land Restitution (Law 1448, 2011), which defined victims as:

Those individuals who individually or collectively have suffered damage for events that occurred on or after 1 January 1985 as a result of violations of international humanitarian law or serious violations of international human rights standards that occurred during the *internal armed conflict*.¹⁴⁴ [emphasis added]

By recognising the existence of the conflict he effectively re-contextualised the FARC within Colombia’s modern history. This set the stage to normalise and re-politicise them. And by acknowledging the conflict he also made the case that it should be resolved. He argued that the “best way to end this conflict”¹⁴⁵ was through dialogue. By shifting his description of the violence as an armed conflict instead of a ‘war against terrorists’ he was shifting the image of the FARC publicly - nationally and internationally - and creating the conditions for a negotiation.

He was also sending direct signals to the FARC that he recognized them politically as a party to the armed conflict. According to a member of the FARC, the armed group was very conscious of this shift: “I know that at one moment they started recognising this as a conflict. Under Uribe it was terrorists, which was absurd. Afterwards, with Santos they started talking about an armed conflict”.¹⁴⁶ People who have had close contact with the armed group or followed their evolution carefully confirm that the recognition of the armed conflict was central to the FARC’s decision to engage in the negotiations with President Santos.¹⁴⁷ This chimes with what President Santos’ brother, Enrique Santos, who led the exploratory talks with the FARC said: “Santos started talking about the conflict,

¹⁴¹ Santos, J. M., 2011, ‘Palabras del Presidente de la República, Juan Manuel Santos Calderón, en el acto de sancion de la Ley de Víctimas y de Restitución de Tierras’, Bogotá, 10 June.

¹⁴² Santos, J. M., 2011, ‘Palabras del Presidente de la República’ 10 June.

¹⁴³ Parra, N. E., 2011, ‘Hace rato hay conflicto armado en este país’, *El Tiempo*, 5 May, Bogotá.

¹⁴⁴ Santos confirmed that he had personally agreed with the sponsors of the victims law to include this concept, *Ibid*.

¹⁴⁵ Santos, J. M., 2011, ‘Palabras del President Santos en el Foro ‘La Reintegración, un negocio que apuesta a la paz’, Bogotá, 4 May.

¹⁴⁶ Alexandra Nariño, *Personal interview*, November 2015.

¹⁴⁷ Carlos Lozano, *Personal interview*, May 2015. Carlos Velandia, *Personal interview*, June 2015; Senior Analyst, International organisation, *Personal interview*, May 2015, Bogotá, Colombia.

for Uribe this was impossible as it implied there were political reasons to the conflict, the FARC is very sensitive to the use of language.”¹⁴⁸

Though the FARC statements remained critical of Santos they referred multiple times to his own expressions and statements such as using the sentence “President for Peace”¹⁴⁹, or the fact that he claimed to be considered a “traitor to his social class”¹⁵⁰ by stating his openness to dialogue. By using Santos’ own words, even if it was done sometimes in a mocking or critical fashion, it showed that the FARC were paying close notice to what he was saying, they were taking on board the shifts in his tone and discourse, thereby acknowledging his efforts at de-vilifying them. In an interview given to a Spanish newspaper Alfonso Cano, who had become the FARC commander following the death of its founder Manuel Marulanda, showed that he was taking on board the fact that Santos had acknowledged the existence of the armed conflict in the Victim’s law by saying: “The inane uribista insistence in signalling the FARC as a terrorist, does not overshadow the blunt truth about *the existence of armed conflict in Colombia contained in the draft of the so-called Victims’ law*.”¹⁵¹ This shows that Cano was acknowledging Santos’ efforts at recognising the armed conflict in contrast to Uribe’s terrorist framing.

ii. Dropping the terrorist label

Santos quickly set the tone for a shift in discourse in his 2010 inaugural speech.¹⁵² He referred to the FARC, as well as other groups that invoke “political reasons”, as “illegal armed groups” or “illegal groups”.¹⁵³ In the same speech, he talked about the “violent ones” and the “guerrilla”.¹⁵⁴ Though he still mentioned “terrorist leaders” once in his inauguration speech¹⁵⁵, it is apparent that by using multiple epithets and labels to describe the FARC he was trying to break the image of the group seen merely as terrorists. The FARC gained in complexity. This trend continued in subsequent allocutions where he used words such as

¹⁴⁸ Enrique Santos, *Personal interview*, 4 June 2015.

¹⁴⁹ FARC-EP, 2011, ‘Desde la trinchera’, Jorge Briceño Suárez, 7 March.

¹⁵⁰ FARC-EP, 2012, ‘FARC-EP, 48 años de lucha armada rebelde’, Secretariado Nacional del Estado Mayor Central FARC-EP, Montañas de Colombia, 27 May.

¹⁵¹ Cano, A. 2011, ‘Entrevista concedida por el camarada Alfonso Cano a un periodista español’, Montañas de Colombia, 20 June, emphasis added.

¹⁵² Santos, J.M, 2010, ‘Discurso del Presidente Juan Manuel Santos Calderón: ¡Llegó la hora a Colombia!’, Bogotá, 7 August.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

“guerrilla”¹⁵⁶, “guerrillas”, “the violent ones”¹⁵⁷, “violent groups”¹⁵⁸, “illegal armed groups”¹⁵⁹, “organization”¹⁶⁰, “subversive”¹⁶¹ or “insurgent groups”¹⁶² to describe the FARC. In a speech in July 2011 he referred to the FARC as “groups outside the law” and the “guerrilla”.¹⁶³ Later, in November 2011 he described them as “subversive groups”.¹⁶⁴ This was a long way from the sole ‘terrorist’ label affixed by President Uribe.

In President Santos’ speeches there was still the odd mention amongst other descriptors of “terrorists”¹⁶⁵ or “terrorist group”¹⁶⁶, but by 2011 the main epithet used by President Santos to describe the FARC became “guerrilla”¹⁶⁷. But dropping the ‘terrorist’ label was not that easy because of intra-party dynamics. There were some differences within the government. While President Santos was conscious of needing to signal a shift in his own discourse he allowed other branches of government to continue using the ‘terrorist’ label. This was mainly linked to internal constraints on Santos. He needed to be able to bring along the army as an important constituency. According to Colombian military representatives at the Havana negotiations, it was a major challenge for the government to shift the discourse while at the same time making sure its soldiers kept on fighting.¹⁶⁸ Ministers of Defence continued calling the FARC a “narcoterrorist organisation”, “terrorists” or referring to “terrorism” more

¹⁵⁶ Santos, J. M., 2010, ‘Mientras las Farc persistan en el terrorismo, las combatiremos con toda la fuerza y la contundencia’, Bogotá, 30 August.

¹⁵⁷ Ibid; Santos, J.M., 2011, ‘Palabras del Presidente de Colombia, Juan Manuel Santos, en la session solemne del Senado de la República de Chile’, Valparaiso, Chile, 17 August.

¹⁵⁸ Santos, J. M., 2010, ‘¡Arreciar, arreciar y arreciar!’, Bogotá, 9 August.

¹⁵⁹ Ibid.

¹⁶⁰ Santos, J. M., 2010, ‘La vía correcta es desmovilizarse’, Santa Marta, Magdalena, 16 October.

¹⁶¹ Santos, J. M., 2011, ‘Alocución del presidente Juan Manuel Santos tras la caída de ‘Alfonso Cano’’, Popayán, 5 November.

¹⁶² Santos, J. M., 2010, ‘Alocución del Presidente Juan Manuel Santos Calderón, luego de la baja de alias el ‘Mono Jojoy’’, New York, 23 September.

¹⁶³ Santos, J.M., 2011, ‘Palabras del Presidente Juan Manuel Santos en la instalación de la Legislatura del Congreso de la República 2011-2012’, Bogotá, 20 July.

¹⁶⁴ Santos, J.M., 2011, ‘Alocución del presidente’, 5 November.

¹⁶⁵ Santos, J.M., 2010, ‘Colombia pedirá en extradición al enlace chileno de las Farc’, Tunja, Boyacá, 30 October.

¹⁶⁶ Santos, J. M., 2010, ‘¡No vamos a descansar un solo segundo hasta que logremos derrotar al terrorismo!’, Bogotá, 20 September; Santos, J. M., 2010, ‘Presidente Santos resalta posición en contra del terrorismo de países de Iberoamérica’, Mar del Plata, Argentina, 4 December.

¹⁶⁷ Santos, J. M., 2011, ‘Alocución del Presidente Juan Manuel Santos, al cumplirse los primeros seis meses de Gobierno’, Bogotá, 7 February; Santos, J. M., 2011, ‘Palabras del Presidente Juan Manuel Santos con motivo de la Cátedra Colombia que dictó en la Escuela Superior de Guerra’, Bogotá, 4 May.

¹⁶⁸ No ceasefire was put in place between the Colombian government and the FARC during the Havana negotiations. Capitán de Fragata Omar Cortés, Member of the government negotiation team, sub-commission on the end of the conflict, *Personal interview*, October 2015, Bogotá, Colombia.

broadly.¹⁶⁹ This chimes with what analysts said in interviews about the time period. According to Mauricio Garcia:

The current Colombian government [Santos administration] has had a pragmatic relationship with the use of the terrorist label. (...) Certain sectors of government like the Ministry of Defence use the term more frequently but there is a sense that the word [terrorist] has been used less and less.¹⁷⁰

Santos also had to shift the perception of the FARC internationally. Santos headed off on a tour of Latin American countries soon after his inauguration to do just that. But the key country to convince was the United States. One could argue that Obama being in the White House instead of George W. Bush would have given Santos more leeway. But the FARC was listed as a terrorist organization in the US and the US government had spent millions of dollars on helping the Colombian government win its counter-terrorist war. Enrique Santos recalled that President Santos and his team were wondering what to do in relation to the US where the FARC was listed as ‘terrorists’. As Enrique Santos noted: “It was important to convince the US and the international community of the need to dialogue.”¹⁷¹

iii. Uncouple the act and the actor

President Santos continued to use the word ‘terrorist’ but mainly to describe the actions of the group, using expressions such as “terrorist act”¹⁷², “terrorism”¹⁷³, “terrorist actions”¹⁷⁴, “terrorist attacks”¹⁷⁵ or “terrorist drift”¹⁷⁶. This uncoupling of the act and the actor implied that change was possible. By not rarefying the FARC as terrorists but focussing on terrorist acts he implied that the FARC could choose another path.

¹⁶⁹ Rivera, R., 2010, ‘Capturado un guerrillero de las Farc y abatido otro, responsables de ataques contra la Fuerza Pública’, Hatogrande, 5 November; Rivera, R., 2010, ‘Más de 10 mil criminales y terroristas fuera de combate en el 2010’, Bogotá, 1 December.

¹⁷⁰ Mauricio García-Durán, *Personal interview*, January 2014. Echoed by Carlos Velandia, *Personal interview*, June 2015.

¹⁷¹ Enrique Santos, *Personal interview*, June 2015.

¹⁷² Santos, J.M., 2010, ‘Las puertas están abiertas para desmovilizarse’, La Macarena, Meta 26 September; Santos, J. M., 2010, ‘Mientras no liberen a los secuestrados y sigan cometiendo actos terroristas, seguiremos enfretando a todos los violentos’, 3 November, Bogotá.

¹⁷³ Santos, J.M., 2010, ‘¡No vamos a descansar!’, 20 September; Santos, J.M., 2010, ‘Las Farc son un ratón que con terrorismo pretenden rugir como un león’, Florencia, Caquetá, 17 September; Santos, J. M., 2010, ‘Mientras las Farc persistan en el terrorismo’, 30 August; Santos, J.M., 2010, ‘Para cualquier diálogo se requiere que dejen de hacer terrorismo’, 22 September. Accessed on 7 April 2016 at http://wsp.presidencia.gov.co/Prensa/2010/Septiembre/Paginas/20100922_02.aspx

¹⁷⁴ Santos, J. M., 2010, ‘Mientras las Farc persistan’, 30 August.

¹⁷⁵ Santos, J. M., 2011, ‘Alocución del Presidente’, 7 February.

¹⁷⁶ Santos, J.M. 2011, ‘Palabras del Presidente’, 20 July.

Having uncoupled the ‘terrorist’ act from the actor, Santos had laid the foundation for dialogue. This other path was made explicit in President Santos’ speeches. Already during his inauguration he stated that the “door of dialogue is not closed with a key” and he frequently used the words “dialogue”, “reconciliation”, “negotiations”, “conversation” and “peace”.¹⁷⁷ Later on, just after the death of Alfonso Cano, he explicitly said the FARC had a choice between “two paths”, between “reason and force”.¹⁷⁸ By shifting the label assigned to the FARC, going back to describing their actions as terrorist and not the actor itself, it opened-up the possibility for dialogue. This shows how the unlabelling through the ‘linguistic ceasefire’ had concrete material effects.

2. Further de-vilification of the FARC

Having brought the description of the armed group and the conflict back to a pre-9/11, pre-proscription vocabulary, Santos could move towards further de-vilification. He started using the armed group’s acronym “FARC” to address and describe them in a clear sign of recognition.¹⁷⁹ He also started showing a form of respect for the group by acknowledging the structures of the organisation using vocabulary such as “ringleaders”¹⁸⁰, “maximum leader”¹⁸¹, “number one”¹⁸² or “Secretariat”¹⁸³.

Looking at the words Santos used to describe the FARC chronologically we see that he shifted first to a ‘normal’ vilification level by using words such as “violent”. He then switched to a de-vilifying level later on by implying the group had a political agenda with words such as “subversive”, “guerrilla” or “insurgent”. This was a deliberate attempt to re-politicise the FARC. Frank Pearl, one of the government negotiators during the pre-negotiation phase, corroborated this view. He said the FARC asked “not to be called terrorists or bandits, [for us] to

¹⁷⁷ Santos, J.M., 2010, ‘¡Llegó la hora a Colombia!’, 7 August.

¹⁷⁸ Santos, J.M., 2011, ‘Alocución del presidente’, 5 November.

¹⁷⁹ Santos, J.M., 2010, ‘Las Farc son un ratón’, 17 September; Santos, J.M., 2010, ‘Las puertas están abiertas para desmovilizarse’, 26 September; Santos, J. M., 2010, ‘Mientras las Farc persistan en el terrorismo’, 30 August; Santos, J.M. 2011, ‘Palabras del Presidente’, 20 July.

¹⁸⁰ Santos, J. M., 2010, ‘Alocución’, 23 September.

¹⁸¹ Santos, J. M., 2011, ‘Las Farc se están desmoronando poco a poco’, Tolemaida, 23 December.

¹⁸² Santos, J. M., 2011, ‘Alocución del President Juan Manuel Santos, de saludo de Año Nuevo’, Barranquilla, 30 December.

¹⁸³ Santos, J. M., 2012, ‘Declaración del Presidente Juan Manuel Santos sobre renuncia del general Óscar Naranjo a la Dirección de la Policía Nacional’, 19 April, Bogotá; Santos, J. M. 2012, ‘Palabras del Presidente Juan Manuel Santos en la ceremonia de graduación de 163 oficiales del Ejército Nacional’, Bogotá, 12 June.

recognise their political nature”.¹⁸⁴ The FARC tell the same story. Marcos Calarcá, a member of the FARC’s negotiating team, said that what was important was that by sitting down to negotiate with them the government was in effect giving them political recognition.¹⁸⁵

Another key element was to portray the FARC as a partner that the government could do business with. In February 2011, Santos said he “value[d] positively”¹⁸⁶ the freeing of five hostages by the FARC, a stark contrast to Uribe’s refusal to even acknowledge previous releases. In April 2011, when the FARC released 10 military and police officers and committed to no longer take hostages, Santos warmly welcomed this shift by stating that it was “a gesture that we value and appreciate in all its dimension”¹⁸⁷. When Santos broke the news to the nation that authorities had been conducting exploratory talks with the FARC on 27 August 2012, he acknowledged that the FARC had “worked seriously”.¹⁸⁸ Later, Humberto de la Calle, the government’s chief negotiator, said the FARC had “fulfilled” the government’s requirements.¹⁸⁹ He was building an image of an opponent that was rational and should be trusted to start an official negotiation.

President Santos put in place a ‘linguistic ceasefire’ that was able to de-escalate the vilification of the FARC to a level of normalised vilification the main components of which were to stop describing and labelling the FARC as “terrorists”, to re-contextualise them by recognising the existence of the armed conflict and to uncouple the act of ‘terrorism’ and the actor. This succeeded in dealing with the more symbolic effect of proscription by shifting the language away from the ‘terrorist’ label. Following the linguistic ceasefire, Santos was able to further de-vilify the FARC by showing recognition, respect, rationality, and expressing the possibility of change ahead of the Havana negotiations. Though enough was done to allow the negotiations to begin, very little was said in the pre-negotiation phase to humanize the FARC. Unlike in the pre-proscription period, the process of de-vilification has had to continue well into the negotiation phase

¹⁸⁴ Frank Pearl, *Personal interview*, Bogotá, Colombia, October 2015.

¹⁸⁵ Marcos Calarcá, *Personal interview*, Havana, Cuba, May 2015.

¹⁸⁶ Santos, J. M., 2011, ‘Alocución del Presidente’, Bogotá, 7 February.

¹⁸⁷ Santos, J.M., 2012, ‘Declaración del Presidente Juan Manuel Santos luego de la liberación de los 10 militares y policías’, Bogotá, 2 April.

¹⁸⁸ Santos, J. M., 2012, ‘Alocución del Presidente de la República, Juan Manuel Santos sobre el ‘Acuerdo General para la Terminación del Conflicto’, Bogotá, 4 September.

¹⁸⁹ De la Calle, H., 2012, ‘Declaración de Humberto de la Calle, Jefe de la Delegación del Gobierno Nacional, durante la instalación de la mesa de conversaciones para la terminación del conflicto’, Hurdal, Norway, 18 October.

and even in the post agreement phase, both of which are beyond the scope of this study.

3. The FARC's self de-vilification

When President Santos was elected, the FARC were deeply sceptical and expected him to follow the course set by President Uribe. Santos had been Uribe's Minister of Defence and one of the leading figures in the government's military strategy. Initially, the FARC showed very little respect in the way they addressed him. The first mention does not even refer to him by name but as the "Minister of Defence of Uribe"¹⁹⁰. In a video from Alfonso Cano addressing the President directly he refers to him as "Doctor Juan Manuel Santos"¹⁹¹. By 2011, FARC communiqués call him "Mister Juan Manuel Santos"¹⁹², "Mister President"¹⁹³ and "President Santos"¹⁹⁴. This evolves to "President of the Republic"¹⁹⁵ when the negotiations with the government are announced in 2012. This evolution in characterisation shows a clear effort at recognising and respecting their opponent as well as a progression in how they perceived President Santos and his willingness to engage.

Instead of focussing on criticising the government, the bulk of the FARC statements in the period leading up to the Havana negotiations, shifted to criticising the role of business and the oligarchy. It showed an effort on the part of the FARC to uncouple the Santos administration from the broader Colombian establishment. This is similar to what happened in the lead-up to the Caguán negotiations and showed an effort on the part of the FARC to reassure parts of the group that were sceptical of the possibilities of negotiating. Another development in FARC statements was the increase in language reflecting openness towards negotiations. They used language such as "finding the political solution to the conflict"¹⁹⁶, "open paths to coexistence"¹⁹⁷, "initiate dialogue"¹⁹⁸, and

¹⁹⁰ FARC-EP, 2010, 'Comunicado', 21 June.

¹⁹¹ Cano, A. 2010, 'Conversemos', *Al Jazeera*, 30 July.

¹⁹² FARC-EP, 2011, 'Al pueblo Colombiano', Secretariado del Estado Mayor Central, Montañas de Colombia, 29 December.

¹⁹³ FARC-EP, 2011, 'Saludo al encuentro nacional por la paz', Secretariado Nacional del Estado Mayor Central, 12 August.

¹⁹⁴ FARC-EP, 2011, 'El bombardeo mediático a Alfonso Cano', Jorge Briceño Suárez, 16 July.

¹⁹⁵ FARC-EP, 2012, 'La Mesa de Conversaciones, un triunfo del clamor nacional por la paz y la solución política', Secretariado del Estado Mayor Central, Montañas de Colombia, 5 September.

¹⁹⁶ FARC-EP, 2010, '¡Gloria eternal al comandante Jorge Briceño, héroe del pueblo en su resistencia contra el opresor!', Secretariado de las FARC-EP, Montañas de Colombia, 25 September.

¹⁹⁷ Ibid.

¹⁹⁸ FARC-EP, 2011, 'Saludo al encuentro nacional por la paz', 12 August.

“conversations”.¹⁹⁹ In Alfonso Cano’s video addressed to Santos in July 2010 he said to him, “Then man we must speak”.²⁰⁰ The tone and content of this sentence is informal with an undertone of jest which implied a certain level of humanization of Santos, or at least an invitation to deal with each other as humans rather than bitter opponents. It showed the FARC leadership making a deliberate and self-conscious effort to de-vilify their opponent but also themselves. As Enrique Santos said in our interview: “Cano had been sending public messages, he had been creating an environment”.²⁰¹

By distancing themselves from certain practices deemed inhumane, the FARC started taking steps towards ‘devillainizing’ itself. This is particularly apparent in their public correspondence with *Colombianos and Colombianas por la paz (Colombian@s)* on the subject of hostage taking. Through an exchange of public letters the FARC committed itself to end what they described as “economic retentions”.²⁰² *Colombian@s* succeeded in engaging the FARC in a public dialogue over a period of two years, which culminated in getting forty hostages freed unilaterally. The FARC described these releases as a way of creating an atmosphere conducive to talks: “The releases of prisoners of war by the FARC, are unilateral gestures to create an enabling environment to trigger the swap agreement for prisoners and clear the road for a political settlement to the conflict.”²⁰³ From the perspective of the government, this decision was seen as fundamental to show that the villain was willing to abandon its villainous ways. The fact that the FARC published a statement to end economic retention was seen as “very important to establish the process [i.e. the negotiation]”.²⁰⁴

Another step in the FARC’s own de-vilification process was their effort at reframing their fight. In their statements from 2010 onwards they start regularly describing their struggle as part of a broader movement of the masses. In a statement addressed “To the Colombian people”, they refer to the strikes led by the indigenous, agrarian organizations, peasant farmers against fumigation, and truck drivers, in the summer of 2011, implying that they are part of the same

¹⁹⁹ Cano, A., 2011, ‘Entrevista concedida’, 20 June.

²⁰⁰ Cano, A. 2010, ‘Conversemos’, *Al Jazeera*, 30 July.

²⁰¹ Enrique Santos, *Personal interview*, Bogotá, Colombia, June 2015.

²⁰² Jimenez, T., 2012, ‘Comunicado: Carta a la Señora Marleya Orjuela, ASFAMIPAZ, Bogotá’, Commandante del EMC, Montañas de Colombia, 3 March.

²⁰³ FARC-EP, 2011, ‘Desde la trinchera’, Jorge Briceño Suárez, 7 March.

²⁰⁴ Enrique Santos, *Personal interview*, Bogotá, Colombia, June 2015.

struggle.²⁰⁵ The FARC's narrative started going beyond their classic historical account of class struggle and oppression. They tried to renew their ideology through social forums and mentioned issues as wide ranging as the minimum salary, LGBT rights, gender equality, the right to abortion, the protection of the environment or unemployment.²⁰⁶ They were also trying to create an explicit link with the struggles of the poor and disenfranchised of Colombia, particularly the peasants, indigenous and afro-Colombian movements.²⁰⁷

By the time the FARC and the Santos administration met in Havana in September 2012, both sides had succeeded in de-vilifying their opponent to a sufficient degree to start negotiating. But the path was tortuous and jagged. Because of proscription, the government had to consciously and deliberately shift its discourse through a 'linguistic ceasefire' before being able to further de-vilify the FARC. The FARC's shift was more fluid but just as deliberate and their efforts at de-vilifying themselves, though still far from what might be needed, set the path for the armed group's transition.

Conclusion

The intense de-vilification process that took place in the lead-up to both the Caguán and Havana negotiations confirm the importance of de-vilification in getting the negotiations started, corroborating much of the literature on the subject. Through a close analysis of the changing language used by the Colombian government and the FARC over time, this chapter offered a better understanding of the main components and modalities of practice in the processes of vilification and de-vilification processes in the context of proscription.

In the lead-up to the Caguán negotiations the de-vilification process between the protagonists was immediate, direct and very public. On the contrary, in the lead-up to Havana, the de-vilification was indirect and protracted. The proscription of the FARC in the post 9/11 environment led to a form of extreme vilification that made starting negotiations with the group nearly impossible.

²⁰⁵ FARC-EP, 2011, 'Al pueblo Colombiano', Secretariado del Estado Mayor Central de las FARC-EP, Montañas de Colombia, 27 December. See also Hernández Delgado (2012).

²⁰⁶ FARC-EP, 2011, '47 Años de batallas por la paz de Colombia desde la Resistencia armada', Estado Mayor Central, 26 May; FARC-EP, 2011, 'Al pueblo Colombiano', Secretariado del Estado Mayor Central de las FARC-EP, Montañas de Colombia, 29 December.

²⁰⁷ FARC-EP, 2012, 'Declaración Pública', Secretariado del Estado Mayor Central de las FARC-EP, Montañas de Colombia, 22 July.

Proscription added a step to the de-vilification process. The government had to retreat from extreme vilification to vilification without the terrorist label before moving towards further de-vilification. I described this shift in discourse as a ‘linguistic ceasefire’. The effect of this is threefold: in recognising the existence of the conflict it re-contextualised the armed group in the conflict, and helped normalise and re-politicise them, to a degree; it brought about a removal of the terrorist label; and it uncoupled the act and the actor, creating the possibility for change to happen.

While President Santos was able to de-vilify the group enough to initiate the formal negotiation process, the ‘terrorist’ label has meant that the de-vilification process is still on-going in Colombia and a large sector of public opinion is yet to be convinced either by the armed group’s efforts at de-vilifying themselves or by the government’s efforts at de-vilifying the FARC. This was very apparent in the rejection of the peace agreement in the referendum that took place in October 2016. The impact proscription has on de-vilification in the longer term will have important implications for post-agreement peacebuilding and the possibility for the FARC to transition into becoming an unarmed actor in Colombian politics.

The literature on negotiations acknowledges that secret talks can often allow the government to start exploring a vilified group’s ‘seriousness’ without losing face vis-à-vis public opinion. And indeed that is what President Santos did. But, at the same time, he strategically and deliberately attempted to change the image of his opponent - shifting the rhetoric to prepare the public and his own government for the possibility of negotiations. What is also apparent in the analysis is the interplay between the inter-party and intra-party dynamics and the importance each side gave to bringing along their different factions as well as signalling to the other party. This will be explored in more detail in Chapter 6 which focuses on the symbolic and material effects of proscription to assess how proscription affected the perception of asymmetry and symmetry between the Colombian government and the FARC.

Chapter Six

Asymmetry and Symmetry

Introduction

On 7 January 1999, in the sweltering heat of San Vicente del Caguán in Southern Colombia, President Andres Pastrana sat next to an empty chair. He was waiting for Manuel Marulanda, the leader of the FARC to join him at the opening ceremony of the Caguán negotiations. Sweating and visibly crestfallen he sat while several hundred members of the FARC pointed guns in his direction. Finally he stood up and made his speech. This iconic image of the empty chair, like a bride left at the altar on her wedding day, came to symbolise the stillbirth of the Caguán negotiations. It also serves to illustrate the complexities of power relationships between governments and armed groups. Asymmetry in protracted armed conflicts does not necessarily lean towards the State.

In October 2012, in a much cooler setting in Hurdal, 60km north of Oslo, the Colombian government and the FARC announced they would be meeting in Havana to start peace negotiations. Both sides were represented not by their leaders but by their chief negotiators, Humberto de la Calle for the Colombian government and Iván Márquez, for the FARC. During a carefully stage-managed event both negotiators entered the room at the same time and sat with representatives of Cuba and Norway between them. They neither talked nor shook hands with each other. The contrast with the image of the empty chair was not incidental but deliberate. Everything was done to avoid the comparison. The mood in Hurdal, indirect, carefully crafted, deliberate and controlled was illustrative of the way the Colombian government altered the power relations in the lead-up to the Havana negotiations in the context of proscription.

The analytical framework set out in Chapter 4 explored a wide understanding of power. Building on the work of Mack (1975) and Zartman (1997), Philipson (2005) and Mitchell (2009), we saw that the asymmetry between a government and armed group can be based on a range of different sources of power. To be able to assess the material and symbolic dimensions of

power in interaction, these different sources of power were folded under two main headings. First, power based on status differentials, which include legal standing, status and international contacts and relations. Second, power based on resource differentials, which include military might and tactics, differentiated will and skills, economics, political and moral resources. Only by assessing all these different components for both parties can we have a clear picture of the power relationship. But Chapter 4 also clarified that power is a “perceived relation” (Zartman 1997). So, in the pre-negotiation phase, the weaker party needs to develop perceived symmetry by ‘borrowing’ power from different sources (Zartman 1997). Third parties can play important roles in this regard (Zartman, Ohlson 1998, Kriesberg 2009). Parties can establish a form of parity of esteem through the pre-negotiation process itself.

The question this chapter sets out to answer is how proscription affected the nature of the asymmetry and how this asymmetry was adjusted during the two pre-negotiation processes between the Colombian government and the FARC. It seems rather obvious that international proscription of the armed group will broadly heighten the power of the government. The government, having won a central battle in the process of having its legal status confirmed by the international community, will be bolstered. But it is less clear how the material and symbolic effects of proscription will affect all these multiple sources of power. Moreover, there is little understanding of the particular effects of proscription on the ways the perception of symmetry is established during the pre-negotiation phase.

By first exploring the complex power relations between the FARC and the Colombian government that led to the Caguán negotiations the chapter will add nuance to our understanding of power symmetry and asymmetry between governments and armed groups and the different sources of power at their disposal. It will also make apparent the ways in which perceived symmetry was encouraged between parties ahead of negotiations in a pre-proscription period. The second part of the chapter will look at how proscription affected the balance between the Colombian government and the FARC and the different sources of power at their disposal post 9/11. It will then explain how it affected the establishment of perceived symmetry in the lead-up to the Havana negotiations.

I. The path to the Caguán

As the opening paragraph made apparent, the power relationship between the Colombian government and the FARC was complex and multifaceted in the lead-up to the Caguán negotiations. The perceived symmetry established between the conflict protagonists ahead of the negotiations was as much about the Colombian government tapping into different sources of power as it was about the FARC vying for increased political clout. In a pre-proscription context, both parties were able to ‘borrow’ power from national and international sources easily and fluidly.

1. Asymmetry

The way power is understood and contested lies at the heart of violent protracted intra-state conflicts. The Colombian conflict with the FARC is no exception. The nature of the armed confrontation between the Colombian government and the FARC has been about power. As Saramiento and Sanchez noted: “the seizing of power and the defence of power has been the main object of the armed confrontation” (Saramiento and Sanchez 2011: 33). In fact, looking closely at the FARC it becomes apparent that everything that they are and everything that they do is a function of trying to seize power (de Francisco 2011: 76).

i. Status differentials

From a legal status point of view, this is a classic case of a highly asymmetric conflict between a state, recognised by the international society, battling an illegal and thus illegitimate non-state armed group. The FARC was made illegal since its formal creation in 1964. But a closer look at the period leading-up to the Caguán negotiations shows a more nuanced picture of the asymmetry between FARC and the Colombian government particularly when it came to status differentials.

During the 1990s, the FARC exhibited elements of legitimacy both nationally and internationally. During what French historian and sociologist Daniel Pécaut described as the FARC’s “apogée”, they received strong support from certain sectors of population, as they implicitly and explicitly formulated the demands and gave form to their feelings of injustice (Pécaut 2008: 69). The armed group felt it represented a constituency of sorts. At that time, the FARC were present in half of Colombia’s municipalities where about 70 per cent of the

population lived.²⁰⁸ De Francisco (2011) made the interesting point that the FARC, beyond considering itself a party to the armed conflict, seemed to actually consider itself as a type of *de facto* state and had developed a “parallelism” with state institutions in the language used to describe their actions.²⁰⁹ They do not ‘extort’ people but ‘cover a tax’ (*cobrar impuestos*), they do not take people ‘hostage’ but ‘retain’ people (de Francisco 2011: 78).

The FARC had established a certain level of status nationally that put it in direct competition with the State. It portrayed itself as the equivalent of Robin Hood for the oppressed in Colombia. This was also apparent at the international level. The FARC opened offices and representations internationally. They had an office in Mexico City and a network of contacts across Europe and Latin America. Its perception was that it felt supported internationally (Gómez Alzate 2010: 47). According to Marcos Calarcá, head of the FARC’s international section, the FARC “travelled around the world, met with governments”.²¹⁰

In stark contrast, the status and legitimacy of the government led by President Ernesto Samper (1994-1998) was in crisis. His government was widely perceived as lacking legitimacy at both the national and international level as his presidential campaign had been funded by the Cali drug cartels. This crisis became known as the ‘8.000 process’. The US State Department even revoked President Samper’s visa based on these suspicions in August 1996, denying him permission to visit the U.S. This was unprecedented for a Colombian President.

President Samper had been keen to get a negotiation process with the FARC off the ground and the FARC had initially welcomed the possibility of talks. But this crisis of national and international legitimacy linked to the 8.000 process drug scandal meant he was unable to follow through. The crisis made his Presidency precarious and meant he did not have the space for this type of political manoeuvre. President Samper’s strategy had been based on looking for direct contact with the guerrilla (Noé Muñoz 2008). President Samper had asked Carlos Lozano and Alvaro Leyva to explore the FARC’s willingness to engage in a peace

²⁰⁸ Advisor 1, Colombian High Commissioner for Peace Office, *Personal* interview, Bogotá, Colombia, June 2015.

²⁰⁹ See Arjona (2018) for details on the FARC’s local governance in Colombia’s civil war.

²¹⁰ Marcos Calarcá (Luis Alberto Albán Burbano), Member of the FARC negotiation team and International Secretariat, *Personal* interview, May 2015, Havana, Cuba.

negotiation through initial contacts.²¹¹ Carlos Lozano explained that the talks did not happen “not because he [Samper] did not want to, but because he did not have the space because of this crisis”.²¹² The FARC issued a statement on 11 February 1996 in which they called on the government to step down claiming it was “illegitimate” because of the drug scandal.²¹³ So, in terms of status differentials and international contacts, the balance actually tipped in favour of the FARC who felt powerful. Similarly, when it came to resources asymmetries, it is not a clear-cut picture of a dominant government versus a weak armed group.

ii. Resources differentials

The Colombian army was in a poor state and was not adequately equipped to fight the FARC. In fact, “The situation appeared so grim [for the Colombian government] that the [US] Defense Intelligence Agency (DIA) predicted in November 1997 that the guerrillas could defeat the Colombian government in five years unless the armed forces were restructured.” (Arnson 2000: 13). The army was equipped and trained for classic warfare: “The military was trained for the war that did not exist, not for the one they were actually fighting, the guerrilla war”.²¹⁴ According to the International Crisis Group (2002:8), in 1998, the army had 133,000 soldiers, of whom only approximately 40,000 were actual combat troops. Most of these were conscripts. So there were not enough soldiers, they were not adequately trained and they did not have the right equipment. General Colon recalled that there was not much support for the military at the time, their equipment was not at all adequate for asymmetrical warfare, what they needed at the time were special forces and helicopters.²¹⁵

In contrast, the period under Ernesto Samper is known as the period of the FARC’s “splendour”, they “had strength, were victorious and had capacity”.²¹⁶ The FARC having switched to an all-out war strategy in the 1990s and had greatly increased their numbers. The FARC had been preparing since 1996 through a new

²¹¹ Carlos Lozano recalled being asked by President Samper in 1994 to establish direct contacts with the FARC, “we started working towards the possibility of a dialogue”, Carlos Lozano, Director of *Semanario Voz* and Member of the Communist Party, *Personal interview*, May 2015, Bogotá, Colombia.

²¹² Ibid.

²¹³ FARC-EP, 1996, ‘El Mandato Samper-De la Calle es ilegítimo’, 11 February.

²¹⁴ Fernán González, Coordinator of the Peacebuilding and Development Programme at CINEP/ Programa por la Paz, *Personal interview*, June 2015, Bogotá, Colombia.

²¹⁵ General Rafael Colón, Director, Acción Integral Contra Minas Antipersonal, Presidencia de la República, *Personal interview*, June 2015, Bogotá, Colombia.

²¹⁶ Luis Eduardo Celis, Advisor, Fundación Paz y Reconciliación, *Personal interview*, May 2015, Bogotá, Colombia.

military strategy dubbed the ‘New Way of Operating’ (*Nueva Forma de Operar*) to move from guerrilla warfare to a war of positions with an increase in the number of fronts, soldiers and weapons (Granada & Sánchez Meertens 2009). Whereas they were only an estimated 3,600 FARC combatants in 1986 by 1996 there were an estimated 17,000 fighters and 10,000 militiamen (International Crisis Group 2002). They were organised in 70 fronts across the country and structured like an army (Valencia 2006) distributed in seven regional blocs.²¹⁷

In terms of the military resources, the FARC felt like they had the upper hand. This military strength translated into battlefield gains. Until the mid-1990s the FARC mainly conducted hit and run guerrilla-type attacks. But between 1996 and 1998 the FARC started conducting large-scale attacks on important military battalions which led them to take military bases, destroy elite Colombian military units and to permanently occupy 202 municipalities in eastern and southern Colombia (Rangel 2000; International Crisis Group 2002; Pécaut 2008; Leech 2011). Moreover, the guerrilla held 500 soldiers. There was a general feeling that the Colombian armed forces were incapable of winning the war militarily. The FARC on the other hand had the military initiative and thought they could win – in other words they thought the “revolution was close” (Gómez Alzate 2011:47). According to Teófilo Vasquez, a Colombian conflict analyst present during the Caguán negotiations, at the time, “there was a clear perception, imagined or real, of the FARC’s dominance”.²¹⁸

Economically as well, the Colombian government was in dire straits. Between 1994 and 1998 unemployment doubled from 7 per cent to 16 per cent, the financial sector was in crisis and, for the first time in more than sixty years, forecasters were expecting no growth of the GDP (Gómez Alzate 2011: 46). The FARC on the other hand had been steadily increasing its income by becoming more involved in the drug trade in the 1990s. The FARC was thought to be earning \$900 million annually in the late 1990s (Hylton 2006 cited in Leech 2011:67). And, unlike other armed insurgencies in Latin America and elsewhere, the FARC were not dependent on funding from foreign governments or a diaspora. As Jan Egeland, the UN Secretary General’s (UNSG) Special Envoy to

²¹⁷ Presidencia de la República, 1998, ‘Plan Colombia, documento de la Presidencia de la República’, October.

²¹⁸ Teófilo Vasquez, Researcher, Centro Nacional de Memoria Histórica, *Personal interview*, May 2015, Bogotá, Colombia.

Colombia between 1999 and 2001, noted, the “FARC never depended on anyone else outside, they are a very domestic group”.²¹⁹ So, unlike many other armed groups who suffered financially from the collapse of the Soviet Union in the early 1990s, the FARC did not.

So, instead of a more customary and clear-cut situation in which the government was seen as the powerful party and the armed group as the weak party, things were inverted in Colombia during the 1990s. Though the government had legal superiority, the FARC had national and international status parity and showed they were a force to be reckoned with on the battlefield.

2. Perceiving symmetry

In the lead-up to the Caguán negotiations both parties tried to bolster their positions. It was not just about strengthening the armed group’s position, the government also attempted to strengthen its own weak position ahead of the negotiations. Both parties borrowed power, to use Zartman’s terms (1997), from different sources both nationally and internationally.

i. Status symmetry

When it came to legal status, the asymmetry in favour of the government remained. The FARC was not given any particular legal standing ahead of the Caguán negotiations. They had actively pushed to have an official belligerency status. This is a status that can be given either by the government or another state. The requirements for which include things like control of territory, troops, or respect for international humanitarian law. This was a very active debate in Colombia at the time and it was something the group wanted, according to the FARC themselves²²⁰, and a Cuban diplomat posted in Colombia at the time.²²¹ People close to the armed group argued that “There was a moment when the feeling was that the FARC fulfilled these criteria”²²².

Though the FARC was never granted official belligerent status, they did receive explicit political recognition ahead of the negotiations, which established a

²¹⁹ Jan Egeland, Former UNSG Special Envoy for Colombia, *Personal interview*, 18 February 2015, Oslo, Norway.

²²⁰ Marcos Calarcá (Luis Alberto Albán Burbano), Member of the FARC negotiation team and International Secretariat, *Personal interview*, May 2015, Havana, Cuba.

²²¹ José Antonio Lopez, Former Cuban diplomat during the Caguá negotiations, 23 May 2015, Havana, Cuba.

²²² Diego Martinez, Lawyer for the FARC negotiation team, *Personal interview*, October 2015, Bogotá, Colombia.

form of perceived status parity at the national level. The government passed Resolution 84 of October 1998 which in effect recognised the FARC as a political organisation ahead of the Caguán negotiations. This resolution built on Law 418 of December 1997²²³, which had been explicitly passed under the Samper administration to allow any government to initiate exploratory talks with the insurgents. This law made it a requirement that before negotiating with an illegal armed actor, the government should recognise that organisation politically. The aim of Law 418 was to make a clear difference “between political dialogue with the insurgency and the demobilisation and bringing to justice of the self-defence forces” (García-Peña 2008: 28).

Moreover, President Pastrana immediately set out to have direct and public contacts with the FARC as we saw in the Chapter 5. Even between the first and second rounds of the election, candidate Pastrana sent Victor G Ricardo, advisor to Pastrana during his election campaign and later High Commissioner for Peace, to meet Manuel Marulanda the leader of the FARC. Pastrana then published photos of the meeting and issued a statement that he would seek direct talks with the FARC if elected (Egeland 2008). When Pastrana was elected President a number of analysts at the time attributed his victory to this meeting. Pastrana then made a point of meeting the FARC directly ahead of his inauguration, meeting in early July 1998 with the FARC leader Manuel Marulanda and Mono Jojoy the FARC’s military chief at an undisclosed location. These direct contacts gave the FARC a form of recognition that bolstered the FARC’s perceived status nationally.

The Pastrana government strengthened its own national status by taking on the mantle of the ‘Citizen’s Mandate for Peace Life and Freedom’, known as the ‘Mandate for Peace’. This ‘Mandate for Peace’ was the culmination of a series of public marches that led to a vote on 26 October 1997 in parallel to the local elections. 10 million votes were cast in favour of a ‘Mandate for Peace’. The genesis behind the vote will be explored in more detail in Chapter 7 as it played an important role in ripening the situation ahead of the Caguán, but should be mentioned here because it gave President Pastrana a very clear mandate and thus

²²³ This law, Ley de Orden Publico 418 from 1994 that came into effect in 1997, is the law that allowed any government to initiate dialogue with illegal groups in Colombia. It had to be renewed every four years. Importantly, this law made it a requirement for the government to recognize the group politically. When Uribe decided to negotiate with paramilitary groups he changed the law in 2002 (Law 782) so that the government no longer needed to recognize the group politically in order to negotiate with it.

legitimacy to start a negotiation with the FARC. This shifted the balance considerably compared to Samper's illegitimate position marred by the Cali drug cartel financing scandal. The government found its national status greatly bolstered.

All these gestures levelled the imbalance between the government and the armed group in terms of their perceived status differentials at the national level. On the one hand, President Pastrana was in a more favourable position compared to President Samper as he had a clear mandate to initiate negotiations with the FARC; on the other, the FARC received clear political recognition putting them on the par with the government. The other space where both parties borrowed power was the international arena.

Both parties bolstered their positions through international contacts and third party interventions. This was a big shift from previous strategies both for the government and for the FARC. Historically, international actors had played a rather marginal role in previous peace efforts (Nasi 2009). Peace processes in the 1980s under the Belisario Betancour (1982-1986) and the Virgilio Barco (1986-1990) administrations were done behind "closed doors" with an absence of international participation or accompaniment. During Cesar Gaviria's (1990-1994) negotiation with the CGSB there was some involvement of Venezuela and Mexico where the talks took place but it was rather limited. The Colombian government had a long-standing aversion to international third party intervention (Cívico 2011: 259). And, as a closed and local armed group, the FARC had always shown little confidence in international actors (Pécaut 2008). As the UNSG Special Envoy for Colombia, Jan Egeland (2000: 83), said in his memoirs:

Colombians in general have been more sceptical than many others of having international involvement. (...) The government and the guerrillas have at some times actually agreed only on one thing, and that is not to bring in international mediation.

President Pastrana took a different route and developed an approach dubbed 'Peace Diplomacy' (*Diplomacia para la Paz*) aimed at getting a maximum of international allies for his efforts at negotiating with the FARC (Barreto Henrique 2014). Pastrana thought international involvement would guarantee more support and credibility for his initiative. It is also clear that it was a way of bolstering his

status vis-à-vis the FARC. Even weakened, the government still had the attributes of power and influence internationally as a State (Bejarano 1999b). Luckily for Pastrana, the international community responded with enthusiasm. The United Nations Secretary General, Kofi Annan, appointed a representative as a Special Envoy to Colombia in 1999. The first one to be appointed was Jan Egeland who had already been actively advising Pastrana in his capacity with the Norwegian ministry of Foreign Affairs (Egeland 2008). His role was not supposed to be one of mediation but rather of facilitation or intermediation (Hernández Delgado 2012).²²⁴ The appointment of such a high-level UN figure would later become impossible in the context of proscription post-9/11.

So, the participation of the international community in peace negotiations effectively only started in the 1990s. The FARC also quickly realised that international participation would be an opportunity to gain legitimacy in front of the world and the recognition of its political status (Borda 2012 cited in Barreto Henríque 2014). The FARC already had offices and contacts internationally but also came to see the Caguán negotiation and the involvement of internationals as a way to strengthen itself politically.²²⁵ According to Carlos Lozano “A lot of countries wanted to speak to the FARC, and they did, some in Colombia, some outside the country. (...) At the time, the FARC had offices in Europe, in Switzerland, they moved with more ease, they had more acceptance.”²²⁶

Even the United States had direct contact with the FARC during this period. The US had explicitly wanted to open a direct channel of communication with the FARC despite the fact that the group had been designated as a terrorist organisation by the State Department since 1997 (Arnson 2000:8). The State Department’s Director of Andean Affairs, Phil Chicola, held a secret meeting with Raul Reyes in December 1998 in Costa Rica (Jones 2009).²²⁷ According to Chicola himself, he “had some significant discussions about the FARC’s objectives.” (Philip Chicola, office of Andean Affairs, U.S. Department of State: 35). But when the FARC were accused of murdering three American indigenous rights activists in March 1999 this political space was curtailed. The US House

²²⁴ This was confirmed by Jan Egeland, *Personal interview*, February 2015 Oslo, Norway.

²²⁵ Teófilo Vasquez, Researcher, *Personal interview*, May 2015, Bogotá, Colombia; Fernán González, *Personal interview*, June 2015, Bogotá, Colombia.

²²⁶ Carlos Lozano, Director of *Semanario Voz* and Member of the Communist Party, *Personal interview*, May 2015, Bogotá, Colombia.

²²⁷ Confirmed by Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia and Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

International Relations Chairman, Benjamin Gilman, accused the administration of “blurring the longstanding U.S policy of not dealing with terrorists” (cited in Arnson 2000: 9).

The establishment of perceived status symmetry ahead of the Caguán between the government and the FARC was fluid and relatively effortless. Contacts with the FARC were direct, public and done at the highest level of government. Both parties also had easy access to international actors and the political climate in Colombia was particularly conducive to initiating negotiations.

ii. Resources symmetry

The main confidence building measure, presented as a step towards negotiations by the Pastrana government, was the demilitarized zone. Indeed, soon after he took office, in August 1998, President Pastrana announced his decision to create a demilitarized zone (*despeje*) in five municipalities in the region of Caquetá: La Uribe, San Vicente del Caguán, Vistahermosa, Meseta, and La Macarena. Effectively demilitarizing a territory of 42,000 km² (approximately the size of Switzerland) and withdrawing 2,000 soldiers. What was particularly surprising about this gesture was that, according to people who had been discussing pre-conditions with the FARC in the years leading-up to the Caguán, the FARC had not even considered asking for an area that was so large.²²⁸

The FARC did not directly reciprocate, but they had, in the year’s leading-up to the peace negotiation, made a number of unilateral gestures when it came to releasing hostages. The most notable of which was the unilateral release in June 1997 of 70 Colombian soldiers by the FARC in Remolinos del Caguán. This initiative had been led by the then Bishop of San Vicente del Caguán, Monseñor Luis Augusto Castro, following six months of dialogue with the FARC.²²⁹

These confidence-building measures played a role when it came to shifting the perception of resources asymmetry. In agreeing to a demilitarized zone, which was unmonitored and ended-up being used as a training and recuperation area for the FARC, the Colombian government in effect acknowledged the armed group’s control over that part of the territory and the group’s overall military

²²⁸ Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia.

²²⁹ Monseñor Luis Augusto Castro, Former Bishop of San Vicente del Caguán and former President of the Conferencia Episcopal de Colombia (until July 2017), *Personal interview*, June 2015, Bogotá, Colombia; Padre Darío Echeverri, Head of Pastoral Social and Secretary of the Comisión de Conciliación Nacional, *Personal interview*, October 2015, Bogotá, Colombia.

strength, thereby acknowledging symmetry of sorts with the armed group both in terms of status and resources.

One area where the FARC had less know-how and experience than the government was in terms of skills - both in the elaboration of their political agenda and their negotiation skills. UNSG Special Envoy Egeland said on a number of occasions how he was “struck by how vague the FARC demands for Colombia’s future were.” (Egeland 2008: 53).²³⁰ But because of the FARC’s network of contacts across Europe and the fact that they had direct access to European and UN diplomats they could request direct support during the pre-negotiations phase. These mainly fell under the category of building the armed group’s capacity in terms of negotiation. The Norwegian government, through the Norwegian Churches and the Lutheran World Federation, funded a constitutional lawyer, for example, that was trusted by the FARC so they could be prepared for the negotiation and “give them the expertise so they are on par with the government”.²³¹ This allowed the FARC to start building a sense of capacity symmetry. Others also sought to affect the group’s strategic calculations. According to Ramirez Ocampo (2004: 75), the International community in Caguán area “attempted to influence the armed actors, informing them that their war tactics and financing by drugs, extortion and kidnapping defied agreed multilateral principles”.

But the most sticking example of direct international capacity building to the FARC was the ‘FARC eurotour’. It was also an attempt at trying to influence how the group saw itself and how others saw it, which reinforced the FARC’s status as a legitimate political actor. The joint delegation that travelled to Europe was composed of Colombian government and FARC negotiators to find “points of reference and possible alternatives that could then be discussed in the context of negotiations” (Confidential interview 2007 cited in Barreto Henrique 2014). The FARC were exposed to the workings of Northern European social democracies and were encouraged to establish contacts with a range of governments and international organisations.²³² Asked about the eurotour, Marcos Calarcá, who

²³⁰ This point was reiterated by Jan Egeland, *Personal interview*, 18 February 2015, Oslo, Norway. The same point was also made by Teófilo Vasquez “the FARC did not know what to ask for”, Teófilo Vasquez, Researcher, Centro Nacional de Memoria Histórica, *Personal interview*, May 2015, Bogotá, Colombia.

²³¹ Jan Egeland, *Personal interview*, 18 February 2015, Oslo, Norway.

²³² Ibid.

participated in the tour as part of the FARC's International Secretariat, said the FARC already had many of these contacts before "more than the government did".²³³ This shows the ease and extent to which the FARC had been able to establish international contacts and tap into these to bolster their perceived status but also their knowledge in a pre-proscription era.

Similarly to international actors, Colombian civil society actors had relatively easy access to the FARC ahead of and during the Caguán negotiations. As noted in Chapter 5, the years leading up to the peace negotiations were marked by extensive mobilization for peace. The Colombian Jesuit research centre CINEP even developed a specific dataset called *Datapaz* which was an inventory of 'collective actions for peace' since 1978. According to the dataset, there had been little civil society peace activism until the early to mid-1990s. A whole range of non-governmental organisations and civil society organisations and networks were set-up in the 1990s. These "civic peace initiatives" played a range of 'roles' from defence and resistance to violence, to peace education and peace and development work all the way to direct engagement in dialogue and negotiations with the armed actors (Fernandez, García-Dúran and Sarmiento 2004: 28). When it came to those actors engaging the FARC directly their roles fell under the categories of understanding the armed group and trying to influence the group's strategic calculations. A notable example is the National Conciliation Commission (CNN) set-up by the Episcopal Peace Commission in 1995. The Bishops who were part of the CNN had an explicit mandate and were authorized by the government to dialogue with armed groups.²³⁴ They helped bring the parties together by providing 'good offices' (Fernandez, García-Durán and Sarmiento 2004).

The Colombian government and the FARC established a clear sense of symmetry ahead of the Caguán negotiations, which confirms much of the negotiation literature on the need for symmetry. While the government and the FARC already had status and resources parity by the 1990s, the period leading-up to the Caguán greatly reinforced this trend. The FARC were granted explicit and direct political status and recognition, they also had easy access to civil society and international actors. Moreover, by establishing a de-militarized zone, the

²³³ Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

²³⁴ Padre Javier Giraldo, Comisión de Conciliación Nacional, *Personal interview*, June 2015, by phone.

government in effect acknowledged a form of parity with the armed group. But the government was also able to strengthen its own position by tapping into the national clamour for peace and borrowing power internationally through its peace diplomacy strategy. This perceived balance was about to shift radically.

II. Proscription and the path to the Havana negotiation

After 9/11 and the attack against the World Trade Centre, suddenly the world remembered that the FARC had been on the U.S. State Department's list of terrorist organisations since 1997 (International Crisis Group 2002). According to Colombia analysts, 9/11 exposed the peace negotiations to much closer international scrutiny. Virginia Bouvier, for example, argued that it was one of the factors that "torpedoed" the talks as suddenly the "political space to engage with groups that were listed as terrorists by the US completely shut down" and it "gave clout to those who thought the negotiated solution was not the way to go".²³⁵ Whereas in the lead-up to the Caguán the listing had been downplayed and US representatives had even met directly with the FARC, post-9/11 being on the US list took on new importance: "rhetoric emanating from both Washington and Bogotá shifted to emphasizing the US State Department's listing of the FARC as an international terrorist organization" (Leech 2011:86).

1. Asymmetry

The effects of international proscription on the shift in rhetoric and the particular symbolic effects were explored in depth in the previous chapter. It is just worth restating that it led the Colombian conflict to be understood and subsumed in the broader war on terror. It also had very direct material implications. The interaction between the symbolic and material effects of proscription completely shifted the power relationship between the Colombian government and the FARC both in terms of status and resources differentials.

i. Status differentials

While during the 1990s the FARC had a form of perceived parity with the Colombian government because it was seen as representing a constituency, this shifted considerably after the Caguán. The political and moral standing of the

²³⁵ Virginia Bouvier, Director of the Colombia Program, United States Institute for Peace (USIP), *Personal interview*, February 2014, Washington D.C.

FARC was deeply affected by the failure of the Caguán negotiation and by international proscription. The FARC lost a huge amount of credibility nationally during this period. Colombian citizens were greatly disillusioned by the armed group and felt betrayed by the lack of seriousness they had shown during the negotiations. It was also shocked by the way in which the group was able to take advantage of the demilitarized zone to kidnap people and control drug production. The general feeling was that the FARC had used the negotiations to strengthen itself both politically and militarily and had not shown a real ‘will for peace’ (*voluntad de paz*). Civil society actors who had played key roles in the ‘Mandate for Peace’ and the peace marches in the lead-up to the Caguán felt betrayed. There was huge popular frustration with the armed group.²³⁶

This loss of political and moral credibility was compounded by international proscription and the way in which President Uribe took advantage of the post-9/11 environment and the international listings to frame the conflict as a fight against terrorists through extreme vilification. Symbolically the language of terrorism deeply de-legitimised the FARC as we saw in detail in the discussion of (de)vilification in Chapter 5. As one civil society actor put it, the “use of the word terrorism and terrorist has simplified the situation as a fight against criminals”.²³⁷ It reinforced the idea that the armed group was not interested in politics or negotiations but only had criminal interests. Materially, it also made the construction of their political relations much more complicated. It increased their isolation as it became legally and practically very difficult to meet the group. Civil society interactions with the armed group that had been relatively fluid in the lead-up and especially during the Caguán suddenly stopped. As one member of the FARC acknowledged, before contact was possible, meetings took place, “but after that, for about eight years, there was some isolation, not total but some”.²³⁸

The listing of the FARC as a terrorist organisation and the particular meaning this took on post 9/11 allowed President Uribe to build a narrative of the internal conflict as a fight against terrorists. It deeply heightened the status

²³⁶ Rosa Emilia Salamanca, Executive Director of Corporación de Investigación y Acción Social y Económica (CIASE) in Colombia, *Personal interview*, October 2015, Bogotá, Colombia; Camilo González Posso, Former President of the Instituto de estudios para el desarrollo y la paz (INDEPAZ), *Personal interview*, June 2015, Bogotá, Colombia.

²³⁷ Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, January 2014, by phone.

²³⁸ Alexandra Nariño (Tanja Nijmeijer), Member of the FARC negotiating team, *Personal interview*, May 2016, Havana, Cuba.

asymmetry between the Colombian government and the FARC from the point of view of the international community. After intense lobbying in 2002, the Colombian government succeeded in getting the FARC and the ELN also included in the European Union's list of foreign terrorist organizations. "This was a diplomatic success for the Colombian government as it deligitimized both groups on the political level" (Kurtenbach 2009:393). The fact that the FARC was now on the US *and* the EU list of terrorist organisations confirmed the armed group's illegality on the world stage. It deeply affected the way they were perceived internationally, which the Colombian government saw as a great victory. As Camilo Gómez Alzate (2009: 35), Former High Commissioner for Peace said:

The guerrilla have been unmasked in front of the world with their terrorist attitude, who no longer see them as mythical like the "Robin Hood" of the oppressed in Colombia (...) Luckily, this vision changed and the whole world catalogued them like terrorists.

Similarly, at the UN level, Colombia denied the existence of the internal armed conflict and the government generated a wide range of documents and statistics that gave the impression that Colombia was in a post-conflict phase. The majority of the international community started buying into the idea that the FARC was a terrorist phenomenon. In effect it stopped the international community thinking that the conflict is a problem between two equal, or at least similar parties (de Francisco 2011: 74).

The EU list in particular also had clear material consequences for the status of the armed group. It put an end to the FARC's network of support in Europe. In concrete terms it meant the FARC were made illegal in Europe, could not travel there, have offices there or hold public meetings inside the EU nor could they qualify for political asylum. This had a deep influence on their international status. Marcos Calarcá who represented the FARC in Mexico at the time said they had to shut the Mexican office in April 2002 but that in Europe "it was worse" as they had people in Switzerland, Spain, Belgium, who all had to leave after EU proscription.²³⁹ Their contacts with internationals were deeply affected:

In the Caguán, the FARC had extensive relations with many countries, even with the Queen of Jordan. There were many meetings with internationals. After the listing, these relations ended. They abandoned

²³⁹ Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

diplomatic relations with the FARC. Once they put us in the list they did not want to have contact with us.²⁴⁰

International proscription also de-legitimised the idea of dialogue itself and the possibility for international third party involvement. President Uribe “re-nationalised” any contacts with the non-state armed actors and relegated international actors to an even more irrelevant role (Barreto Henrique 2014). President Uribe saw international facilitation as only acceptable if it was seen to support his policy, was politically controllable and without an independent voice (Barreto Henrique 2014). Based on the premise that you do not negotiate with terrorists, the government thought that if it were seen to accept international third parties playing a role that this would “detract from its position that the FARC is a terrorist phenomenon” (de Francisco 2011: 74).

So, while proscription deeply de-legitimised the FARC at a national and international level, it also bolstered the status legitimacy of the Colombian state. The situation in Colombia was no longer perceived as one between two conflict parties but as a fight between a legitimate government against a group of terrorists.

ii. Resources differentials

During the Caguán, the armed conflict actually got worse while the peace negotiations were taking place (Egeland 2008). As the FARC continued its slow numerical growth, the paramilitary groups achieved supremacy in important agricultural and strategic corridors for drugs and arms trafficking. Moreover, the government security forces were able to modernize their equipment with new technology through the support of Plan Colombia with the United States (Gonzales Posso 2004). The military balance between the government and the FARC had already started shifting in favour of the government during the Caguán negotiations, but the material implications of 9/11 deeply reinforced this trend.

The incorporation of the FARC in the broader ‘war on terror’ led to very concrete material implications in terms of the military balance between the Colombian government and the FARC. In August 2002 the US Congress allowed “lethal assistance” provided to Colombia, which had previously been restricted to

²⁴⁰ Alexandra Nariño, *Personal interview*, May 2016, Havana, Cuba.

counter-narcotics, to be used in counter-terrorism operations (Tate 2004: 73; Fajardo 2003: 32). This is a very clear example of the symbolic and material effects of proscription reinforcing each other. Because the conflict was labelled in a particular way, it allowed the Colombian government to use resources from its fight against drugs for its war against the FARC. It also led to an additional US\$35 million for the Colombian military and police. The aim was to target “the unified ‘cross-cutting’ threat posed by groups that use narcotics trafficking to fund their terrorist and other activities that threaten the national security of Colombia” (quoted in International Crisis Group 2002: 14).

President Uribe’s two terms in office, between 2002 and 2010, reinforced this trend. It is during this period that “the country experienced a more radical relation between war and politics” (Saramiento and Sanchez 2011: 33). The *Plan Colombia*, was followed by the *Plan Patriota* and *Seguridad Democrática* policies. The Colombian government invested heavily in modernizing its armed forces. Military spending between 2001 and 2007 according to the Court of Auditors grew to 4.7 per cent of GNP compared to an average of 1.6 per cent in the rest of Latin America (cited in International Crisis Group 2002). By 2010, and the end of the Uribe administration, the “correlation of forces had shifted favourably” for the government.²⁴¹

The terrorism framing delegitimised armed group violence but it also had the effect of bolstering the government’s strategy: “the impact of the listing was more connected to legitimising the Uribe government”.²⁴² Similarly, the FARC’s own assessment was that international proscription facilitated Uribe’s bellicose strategy: “Then it was the start of Plan Patriota and the military onslaught. Having us on the list worked well, they needed to justify it”.²⁴³ It also strengthened the Colombian military not just in material terms but also symbolically. They felt supported and valued. One military personnel explained, “These attacks [9/11] changed my life because those that were working [against the FARC] received total support and clarity on identifying and clarifying the target. It was positive for us in our fight against them.”²⁴⁴

²⁴¹ Camilo González Posso, *Personal interview*, June 2015, Bogotá, Colombia.

²⁴² Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, June 2015, Bogotá, Colombia.

²⁴³ Alexandra Nariño, *Personal interview*, May 2016, Havana, Cuba.

²⁴⁴ Capitán de Fragata Omar Cortés, Member of the government negotiation team, sub-commission on the end of the conflict, *Personal interview*, October 2015, Bogotá, Colombia.

So, proscription not only strengthened the government and the army symbolically, it also made violent counter-terrorism strategies by the state appear appropriate and legitimate with clear material consequences. The army itself acknowledged that this characterisation helped their fight:

The FARC and the ELN are included in the lists and considered terrorists at the global level, this gives us a judicial support and a justification to attack the FARC not like a revolutionary group or a political group but like a terrorist group.²⁴⁵

President Uribe's government succeeded in altering the military balance and pushing the FARC out of urban centres. General Colón recalled: "Uribe hit the FARC hard in its centre: its structure, militias, lines of communication. The FARC moved to the periphery, away from the urban centres and main transport connections."²⁴⁶ By the end of 2010 the FARC only retained a significant presence in three regions: the south-east (Meta, Guaviare, Caquetá and Putumayo), the south-central highlands (Huila and southern Tolima), and the south-west (Nariño, Valle de Cauca and southern Chocó) (Leech 2011:139). The government also succeeded in killing members of the FARC's top leadership, which was something completely new. Though Manuel Marulanda, the FARC's founder and leader, died of natural causes in March 2008, key members of the FARC Secretariat Raul Reyes and Ivan Rios were killed by the army in 2008 as well as Mono JoJoy and Alfonso Cano in 2011. These assassinations were greatly helped by US intelligence and military support through the re-focussing of Plan Colombia from a fight against narcotics to a fight against terrorists.

It terms of military resources we already saw how the US listing in particular bolstered funds for the Colombian army. What is less clear is how the financial material implications of proscription such as asset freeze affected the FARC. It is obviously difficult to have a clear picture of the impact on FARC's finances. While there are no published figures, the asset freeze appeared to have been of limited consequence for the armed group because of its other sources of funding and the fact that it was not dependent on diaspora support or international banking transaction. Even though certain military personnel argued that it had an

²⁴⁵ Coronel Carlos Arturo Velásquez, Member of the strategic command on transition, *Personal interview*, October 2015, Bogotá, Colombia.

²⁴⁶ General Rafael Colón, *Personal interview*, June 2015, Bogotá, Colombia.

impact because “it stopped Europeans giving them money”²⁴⁷, this would have been very marginal compared to the FARC’s broader budget. The Norwegian team, who probably have a good sense of the FARC’s finances as they funded the armed group’s participation during the Havana negotiations, claim that proscription had little financial impact especially if compared to other armed groups: “International proscription has not had a material effect on their funding because the group has other sources – unlike the LTTE that depended on diaspora money.”²⁴⁸

By the end of President Uribe’s two terms in office, the perception of asymmetry between the Colombian government and the FARC was acute. The situation had switched completely when compared to the 1990s period. This time the government was definitely seen as the most powerful actor and the FARC was deeply weakened. International proscription and the framing of the FARC as terrorists radically shifted the legal and status relations between the Colombian government and the FARC. The armed group was broken politically by the listings while the government was strengthened. It put an end to the FARC’s international contacts and relations while bolstering the government’s. It also deeply eroded the armed group’s political and moral standing in Colombia. This trend was even more apparent in terms of resources asymmetry. Though proscription did not appear to have had a big impact on the group’s finances, it deeply shifted the military and political and moral balance in favour of the government. It produced a shift from a situation in the late 1990s where the FARC was actually thought of being on the brink of power practically, to one where the armed group was seen as beaten militarily. Proscription symbolically and materially bolstered the Colombian military and legitimised a shift towards increasingly violent counter-terrorism strategies, which had deep repercussions on the FARC.

2. Perceiving symmetry

Under President Uribe, and following the collapse of the Caguán negotiations, the option to have a political negotiation with the FARC shuts down. The Uribe government made it perfectly clear they would not negotiate with ‘terrorists’. Similarly, the FARC argued that “dialogue with the current government [Uribe

²⁴⁷ Capitán de Fragata Omar Cortés, *Personal interview*, October 2015, Bogotá, Colombia.

²⁴⁸ Norwegian diplomats, Ministry of Foreign Affairs, *Personal interview*, February 2015, Oslo, Norway.

administration] is impossible as long as the government persists in its media strategy of characterizing the insurgency as narco-terrorist, and as long as it continues to criminalize popular protest” (Echeverri 2006:19). The only issue that remained on the agenda during the Uribe period was the possibility of a humanitarian negotiation, swapping hostages for prisoners, which became known as the possibility of a ‘humanitarian accord’ (*acuerdo humanitario*)(Correa Robledo 2006, Chernick 2009). In August 2002 President Uribe asked UN Secretary General Kofi Anan for his good offices to establish a humanitarian accord with the FARC. President Uribe authorized the UNSG special adviser James Lemoyne to make contact with the FARC. But by April 2005 the UNSG withdrew Lemoyne acting on a request by President Uribe himself. According to Jones (2009), James Lemoyne had deeply offended Uribe by saying the FARC had a political programme. This was to be the end of high-level UN representation in the Colombian conflict. Uribe was not going to take the risk of having the FARC ‘borrow’ power from an international third party.

It is only with the arrival of President Santos that we start seeing attempts at redressing the asymmetry between the Colombian government and the FARC. President Santos actually surprised everyone when he stated in his inaugural speech on the 7 August 2010 that the “door was open for peace”.²⁴⁹ As Uribe’s defence minister and a senior figure in pursuing his ‘Democratic Security Policy’, this is not what Colombians nor the FARC had expected of Santos. But, though he clearly expressed his readiness to enter into dialogue, he also said he would only move forward if the guerrilla laid down their arms and stopped kidnapping, intimidation, extortion and drug dealing.²⁵⁰ It is clear from the outset that though President Santos was exploring a negotiation with the listed armed group he did not want to weaken his own government’s position or strengthen the FARC’s unnecessarily. This became rapidly apparent both in the way the status and resources differentials between the government and the FARC were adjusted in the lead-up to the Havana negotiations.

²⁴⁹ Santos, J.M, 2010, ‘Discurso del Presidente Juan Manuel Santos Calderón: ¡Llegó la hora a Colombia!’, Bogotá, 7 August.

²⁵⁰ Ibid.

i. Status symmetry

Unlike the period leading-up to the Caguán negotiations when the FARC were granted explicit political recognition, the lead-up to Havana was marked by much more indirect and nuanced attempts at creating perceived symmetry. The FARC were not granted a change in legal status nor were they de-listed by any government or international organisation, which would have greatly bolstered their status. As we saw in Chapter 5, proscription created a political straightjacket for Santos as it greatly increased the entry cost for negotiations. Granting the FARC obvious and explicit status and recognition ahead of negotiations was not an option.

The FARC did not receive a political status ahead of Havana. The Santos administration benefitted from the fact that the Public Order Law 418 of 1997, which had been used by President Pastrana to grant the FARC political status ahead of the Caguán negotiations, had been amended under President Uribe in 2002. When Uribe was setting the stage for his negotiations with paramilitary groups, this law was renewed through the passing of Law 782 (2002) but a key clause was changed - the clause by which the government needed to recognise an organisation politically before negotiating with them. Instead, Uribe pushed for this sentence to be taken out of the law meaning that a government no longer needed to recognise a group politically to be able to negotiate with them. According to a government official, this change in the law also facilitated the initial exploratory contacts with the FARC in the context of proscription because they were able to do so without having to grant the group an official political status.²⁵¹

Though the FARC were not granted any change of status ahead of Havana, the 'linguistic ceasefire', which was explored in detail in the Chapter 5, reduced the symbolic effect of proscription. It allowed President Santos to slowly adjust the FARC's public status but also give the FARC a sense of parity. The fact that Santos recognised the existence of the armed conflict, stopped using the terrorist label to describe the FARC and acknowledged the fact that the armed group could change, the three key components of the 'linguistic ceasefire', all contributed to creating a sense of parity of esteem between the parties. This was a crucial pre-

²⁵¹ Advisor 2 (Gerson Ivan Arias Ortiz), Colombian High Commissioner for Peace Office, *Personal* interview, June 2015, Bogotá, Colombia.

condition for the group and one of the ways in which they felt their status bolstered ahead of Havana. Frank Pearl who was involved in the exploratory talks said “They [FARC] asked not to be called terrorists or bandits, to recognise their political nature”. In the absence of an official political status it was also the fact of the government engaging with them that gave them ‘automatic recognition’ (Zartman and Faure 2011). As one analyst said about the Havana negotiations, they were “clearly not treating them as ‘terrorists’ as they are negotiating on content such as political participation and land redistribution” central issues of the FARC’s agenda.²⁵² The act of pre-negotiation itself helped level the playing field.

President Santos did not want to give the FARC a platform for an extended public negotiation, the potential political costs of which would be too high in the context of proscription. Unlike when candidate Pastrana was meeting with the FARC in broad daylight even before being sworn in, Santos made sure to keep the pre-negotiation process completely secret and indirect. All the initial contacts with the FARC were done in secret not through himself or government officials but through a Valle de Cauca businessman called Henry Acosta who had long-established links with Pablo Catatumbo, a key member of the FARC’s Central Command. Henry Acosta would carry messages across between President Santos and the FARC leadership.²⁵³ It is only once President Santos had established through this indirect exchange that there was real willingness and capacity on the part of the FARC that he designated two representatives to have direct talks with two FARC leaders. One was Frank Pearl, who had been High Commissioner for Peace under the Uribe administration and the other was his own brother, Enrique Santos. Enrique Santos explained the content of these meetings: “We were discussing: what, where, how, when after ten years of absolute war.”²⁵⁴

The role of Enrique Santos as the President’s brother was important symbolically to establish a form of subtle parity of esteem between the government and the armed group. Many of my interviewees highlighted the essential and central role he played.²⁵⁵ As Frank Pearl said “He was the clearest

²⁵² Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, June 2015, Bogotá, Colombia.

²⁵³ Norwegian diplomats, Ministry of Foreign Affairs, *Personal interview*, February 2015, Oslo, Norway.

²⁵⁴ Enrique Santos, President Santos’ brother and government negotiator, *Personal interview*, June 2015, Bogotá, Colombia.

²⁵⁵ Gimena Sánchez-Garzoli, Senior Associate for Colombia, Washington Office on Latin America (WOLA), *Personal interview*, April 2014, Washington D.C. Echoed by Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia.

and most direct message” of the government’s commitment.²⁵⁶ It gave much confidence to the FARC²⁵⁷ and gave them a sense of significance. Even Enrique Santos himself acknowledged the importance of his own role “it was a mark of confidence, his own brother, this was a clear signal”.²⁵⁸ It was an effective side-stepping strategy since the government could not give explicit status to the group it gave them a channel with the highest status it could bar the President himself.²⁵⁹

Another notable difference with the Caguán in terms of fostering symmetry ahead of negotiations was the absence of high-level international actors during the Havana pre-negotiation phase. In the lead-up to the Caguán negotiations there was a UNSG Special Envoy to Colombia. As Barreto Henriques (2014) noted, the absence of a highly relevant international actor like United Nations is unusual. This was linked to President Uribe’s strategy over eight years in office to systematically minimize the political aspect of the conflict by blocking any attempts for Colombia to be seen as having an armed conflict. As one US-based Colombia analyst recalls, “Colombia had no real visibility at the political level at the UN”.²⁶⁰ In the context where a group is branded as a terrorist organisation by the US, having a UNSG Special Envoy “would be impossible”.²⁶¹ As a UN representative confirmed, “It became almost taboo to have someone at the level of Jan Egeland or James Lemoyne since Caguán”.²⁶² It is only later, well into the negotiation process itself, that the UN was finally invited to nominate a representative. But Jean Arnault was only nominated as ‘Delegate of the Secretary-General to the Sub-Commission on End of Conflict Issues within the Colombian Peace Process’. As the convoluted title shows, his status was very much reduced compared to previous UN representatives. He was only upgraded to ‘Special Representative and Head of the United Nations Mission in Colombia’ in March 2016 after the signature of the final agreement.

The FARC was thus not able to ‘borrow’ much power from internationals because of their absence in the pre-negotiation phase. Interestingly the only

²⁵⁶ Frank Pearl, Former High Commissioner for Peace (*ad interim*) under President Uribe and government negotiator under President Santos, *Personal interview*, October 2015, Bogotá, Colombia.

²⁵⁷ Diego Martinez, *Personal interview*, October 2015, Bogotá, Colombia.

²⁵⁸ Enrique Santos, *Personal interview*, June 2015, Bogotá, Colombia.

²⁵⁹ This shows the importance of having the right channel. Some people argue that is what is missing in the pre-negotiation process with the ELN, Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia.

²⁶⁰ Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia.

²⁶¹ Gimena Sánchez-Garzoli, *Personal interview*, April 2014, Washington D.C.

²⁶² Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

countries that came to play a role during that period had all opted out of the worldwide proscription regimes. The only ‘Western’ country that was able to play a significant role in the pre-negotiation and negotiation phase was Norway, who, in 2006 explicitly distanced itself from the EU terrorist listing. The two other countries were Venezuela and Cuba who were not aligned with the US or European proscription regimes. A number of third party actors closely involved in the Havana negotiations noted that both countries, Venezuela and Cuba, played an important role in bringing the FARC around and have been closely involved in the pre-negotiation and negotiation in Havana.²⁶³ This will be explored in more detail in the Chapter 7, but what is relevant here is that the FARC tried to ‘borrow power’ from these countries in the lead-up to Havana albeit not very successfully. For example, in 2008 President Hugo Chavez of Venezuela called for recognition of the FARC “as a legitimate insurgent force” (Romero 2008) and to be removed from the different terrorist listings. His plea remained unheeded.

The way in which perceived status symmetry was established ahead of the Caguán was indirect and subtle. The ‘linguistic ceasefire’, the important symbolic role played by Enrique Santos the President’s brother, and the fact of pre-negotiation itself became important factors in creating a certain sense of parity of esteem. However, the government kept its legal dominance and made sure to minimise the FARC’s ability to ‘borrow’ power from national or international third parties.

ii. Resources symmetry

Militarily the Colombian government had the “upper hand” ahead of Havana, which was not the case during the previous negotiations.²⁶⁴ The government choose to keep this dominance by not putting in place a bilateral ceasefire. The government choose to “escalate the war while talking peace” (Bouvier 2014). Similarly, no demilitarized zone was granted to the FARC this time around. The decision not to have a bilateral ceasefire or a demilitarized zone was partly to do with the government having learned its lessons from the Caguán process. Both the

²⁶³ Jonathan Powell, Former Chief of Staff to Tony Blair and Advisor to Colombian government, *Personal interview*, October 2014, London, U.K.; Norwegian diplomats, Ministry of Foreign Affairs, *Personal interview*, February 2015, Oslo, Norway. President Hugo Chavez also called on the FARC to end its armed struggle stating that “At this moment in Latin America, an armed guerrilla movement is out of place” (Romero 2008).

²⁶⁴ Virginia Bouvier, Director of the Colombia Program, United States Institute for Peace (USIP), *Personal interview*, February 2014, Washington D.C.

despeje and the ceasefire had given the FARC ample opportunity to strengthen itself. It also had a lot to do with how such concessions would be seen by the Colombian public and by the military in a context of proscription. The Colombian government wanted to keep its military advantage in the context of the negotiations. According to Frank Pearl, not having a bilateral ceasefire gave them a lot of power:

One of the key lessons of the Caguán was to keep the military pressure. I remember a time when Mauricio Jaramillo came to a meeting shaking for having almost been killed in an attack. This gave us a lot of power in the negotiation. It is crude as I am talking about human lives but it is true. Without the daily armed confrontation, organisations like the FARC and the ELN become anesthetized, the processes become longer, the political commitment lowers.²⁶⁵

It is only once the official negotiations were on going, and the government considered that sufficient progress was being made, that the government agreed to ‘de-escalate’ the military pressure on the FARC. Moreover, it is only at the end of the negotiations, when the final agreement was reached and signed that a true bilateral ceasefire was put in place.

Unlike in the lead-up to the Caguán, it is the FARC that made the most gestures in terms of confidence building measures, mainly through their unilateral ceasefires and by releasing hostages unilaterally. They enforced a number of unilateral ceasefires, the first of which was instituted on 19 November 2012. As the FARC stipulated on their website, the first unilateral ceasefire was aimed at “strengthening the climate of understanding necessary for the parties to start dialogue and to achieve the purpose all Colombians ask for” (FARC 2012). Their statement showed an acknowledgement that a ceasefire on their part was a necessary first step towards creating the right conditions for negotiations.

Similarly, between 2008 and 2012 the FARC released 40 hostages unilaterally facilitated through letter exchanges with *Colombianos and Colombianas por la Paz*. We saw in the Chapter 5 that these unilateral releases of hostages by the FARC were a way for the armed group to de-vilify themselves vis-à-vis the Colombian public. But they were also a clear confidence building measure vis-à-vis the Colombian government who had set the release of hostages as a pre-condition as well as an attempt to ‘borrow’ power from national and

²⁶⁵ Frank Pearl, *Personal interview*, October 2015, Bogotá, Colombia.

international actors involved. As Frank Pearl reflected back on the releases he said the government was worried that “The FARC were trying to get legitimacy from the liberations and Piedad Cordoba and Chavez were getting a lot of credibility for it.”²⁶⁶

There was a certain amount of worry within the government and the army that the FARC would have more experience negotiating because they had more scope to build on lessons from previous peace negotiations. As an army officer said “We don’t have the years and years of experience in negotiations as do the ELN or FARC. Will we be taken advantage of at the table by all sides?” (quoted in Schimer 2009: 406). The government made a deliberate and conscious effort to plug this capacity gap and bolster their understanding of negotiations. It was easy for them to get that sort of international and specialised support during the pre-negotiation phase. This time around the Colombian government made a big effort to learn the lessons from previous attempts at negotiating with the FARC and in getting support from international peace and conflict resolution specialists.²⁶⁷ According to a high-level official working in the High Commissioner for Peace’s office, they started collecting documents of past processes in 2010 with the aim of learning lessons from previous processes: “it took two years of maturation working on this, the focus was how to start a process with the biggest armed group which is the FARC”.²⁶⁸

The FARC on the other hand did not have easy access to negotiation training or support. A ‘euro tour’ like the one organised in the setting-up of the Caguán negotiations was impossible in the context of international proscription. So, while some in the leadership of the group, such as Andres Paris and Carlos Antonio Lozada, had experience from previous negotiations with the government, other members of the FARC’s negotiating team received little training.²⁶⁹ A member of the FARC negotiating team, asked if she had received any training in the pre-negotiation phase, said: “No, nothing. I was told: in fifteen days you are

²⁶⁶ Frank Pearl, *Personal interview*, October 2015, Bogotá, Colombia.

²⁶⁷ Jonathan Powell, Former Chief of Staff to Tony Blair and Advisor to Colombian government, *Personal interview*, October 2014, London, U.K.; Frank Pearl, *Personal interview*, October 2015, Bogotá, Colombia.

²⁶⁸ Advisor 2, Colombian High Commissioner for Peace Office, *Personal interview*, June 2015, Bogotá, Colombia.

²⁶⁹ Isabel Sanroque, Member of the gender sub-commission, FARC negotiating team, *Personal interview*, May 2016, Havana, Cuba.

going to Havana”.²⁷⁰ But even discreet support by both international and Colombian third parties became much more challenging in the context of proscription. Symbolically, the political space for third party engagement with the listed group shrunk considerably. The idea of dialogue was deeply de-legitimised. Father Francisco de Roux, the Jesuit provincial and someone who has been deeply involved in dialogue processes with armed groups in Colombia, said that the framing of the armed conflict as a war against ‘terrorists’ “had a big impact of de-legitimising us, those who are doing the work of conversation”.²⁷¹ He added “They [the government] say – you are talking to our perverse enemies. They do not offer anything except destruction. You give them legitimacy by talking to them”.²⁷²

Materially as well, the access to the group was also deeply affected. There have been a number of cases of people, both internationals and Colombians, criminalised for their contacts with the FARC. One illustrative case is that of the Swiss government emissary, Jean-Pierre Gontard. He had been explicitly asked by the Colombian government to open a dialogue channel to the FARC in the process of negotiating the humanitarian exchange under the Uribe administration. Although Uribe played up to the international community’s expectations that he should appear to agree to a humanitarian exchange, his lack of will became apparent. A number of people involved in these efforts have pointed out that though he publically appeared to support these efforts, privately he sabotaged them (Jones 2009; Cordoba quoted Hernández Delgado 2012).²⁷³ Jean-Pierre Gontard, was the victim of a smear campaign in the Colombian press and judicial charges were pressed against him for his contacts with the FARC.²⁷⁴ A number of other intermediaries both international and Colombian (the Colombians Piedad Cordoba, Alvaro Leyva, and the American Jim Jones) were also charged for contacts with the FARC.

This criminalisation also created a climate of self-censorship and fear amongst potential third party actors. Norwegian diplomats admitted that though they had “always had contact with the FARC, but for a number of years [during

²⁷⁰ Alexandra Nariño, *Personal interview*, May 2016, Havana, Cuba.

²⁷¹ Padre Francisco de Roux, Jesuit Provincial, *Personal interview*, January 2014, Washington D.C.

²⁷² Ibid.

²⁷³ Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia; Rémy Friedmann, Swiss diplomat, *Personal interview*, January 2014, by phone.

²⁷⁴ Rémy Friedmann, *Personal interview*, January 2014, by phone.

the Uribe administration], it became more difficult to have direct contact so [we] interacted through people close to the group”.²⁷⁵ Similarly, members of Colombian civil society said that direct access to the FARC became impossible; instead it was mediated through certain key people that had been closer to them, people who knew them from the Caguán and Casa Verde.²⁷⁶ One of the innovative strategies, which helped to side step the effects of proscription to a certain degree at a very local level was the use of ‘pastoral dialogues’ (*dialogos pastorales*) with armed actors.²⁷⁷ They happened at a local level led by priests and local bishops and were an essential way of keeping some communication channels open and were very useful to negotiate hostage releases or respect for civilians. The Colombian government had attempted to control and limit these ‘pastoral dialogues’, but had to accept them to a large degree (Henao 2009). Though they were not mentioned in law they had become more of a custom – the supposition being that these dialogues are for peaceful and humanitarian purposes. Church leaders used this ‘cover’ strategically to accompany community leaders in conversations with armed groups – “then he or she is legitimated”.²⁷⁸

In terms of political and moral resources, parties can bolster their perceived position through mobilising large groups or building alliances. In the context of proscription, the government was the party able to mobilise the biggest numbers. Unlike the marches for peace in the lead-up to the Caguán, the biggest marches in the lead-up to Havana were the marches against the FARC. In February 2008 for instance thousands of Colombian marched under the banners “No More FARC” in Colombian cities and abroad.

What is clear is that Uribe has beaten the FARC politically. Since the end of the Caguán the movement has been towards discrediting them completely. Before the Caguán people were broadly favourable toward talks with them. This has been a political victory; public opinion is completely against the FARC. The marches in 2006 and 2008 for peace were mainly against the FARC (and against hostage taking). The polarization in the country has become more extreme.²⁷⁹

²⁷⁵ The Norwegians were only able to engage the FARC directly in capacity building from December 2011 onwards, once the pre-negotiations were well under way, Norwegian diplomats, Ministry of Foreign Affairs, *Personal interview*, February 2015, Oslo, Norway.

²⁷⁶ Mauricio García-Durán, *Personal interview*, June 2015, Bogotá, Colombia.

²⁷⁷ Defined as “ways of listening to the parties involved in the conflict to build bridges of communication and open up possibilities for encounter” (Henao Gaviria 2009: 180). See also García-Durán and Sarmiento Santander (2015) and Hernández Delgado (2012).

²⁷⁸ Padre Francisco de Roux, *Personal interview*, January 2014, Washington D.C.; Mauricio García-Durán, *Personal interview*, January 2014, by phone.

²⁷⁹ Fernando Sarmiento Santander, Coordinator, Citizenship and peace team, CINEP/ Programa por la Paz, *Personal interview*, May 2015, Bogotá, Colombia.

Proscription greatly influenced the perception of symmetry ahead of the Havana negotiations. While a certain level of status symmetry was put in place through the ‘linguistic ceasefire’ and an indirect and subtle parity of esteem, the imbalance in resources in favour of the government remained. The lack of a bilateral ceasefire, access to trainings, and more broadly the narrowing of the space for civil society and international actors to engage directly with the listed armed group, all contributed to keeping the asymmetry in terms of resources differentials. It was only once the formal negotiations were well under way that the Colombian government agreed to de-escalate the military confrontation and allowed the FARC to re-balance the capacity asymmetry by having contacts with internationals in Havana.²⁸⁰

Conclusion

The status asymmetry between the Colombian government and the FARC was considerably widened post 9/11. Whilst in the lead-up to the Caguán negotiations the two parties were not that far apart in terms of perceived status differentials, both seen as representing legitimate constituencies, with international recognition and contacts, following the collapse of the negotiations and the international proscription of the FARC as a terrorist organisation, this balance completely shifted. The conflict was reframed as a war against terrorists who did not represent legitimate grievances; the FARC had to shut down their offices abroad. Even the idea of dialogue with the armed group was de-legitimised and all contacts with the FARC were ‘renationalised’ and criminalised. The conflict stopped being seen as one between two parties if not equal at least similar.

The shift in terms of resources asymmetry was in a way even more radical, moving from a situation where the FARC felt it had the upper hand militarily, when people even talked about the possibility of them ‘taking power’, to one where the FARC was in retreat, and deeply shaken by the loss of key leadership figures. The post 9/11 changes, which allowed for lethal assistance from the US to be used in the Colombian government’s fight against the proscribed FARC, played a significant role in this reversal. This important material effect of proscription might be less pronounced in a context that is further removed from

²⁸⁰ The contact with Colombians remained criminalized unless someone received a special permission from the Office of the High Commissioner for Peace.

the US' strategic interests, but the effect of legitimising the type of war being fought against the listed armed group would remain.

A similar pattern can be seen when it came to the way the asymmetry between the parties was re-balanced in the pre-negotiation phase. In the lead-up to the Caguán, the status differentials were adjusted through very public and direct contacts between the highest levels of government and the FARC leadership. This was coupled with explicit political recognition of the armed group ahead of the negotiations, and an environment that encouraged contact with international actors including the US and national actors. This picture stood in sharp contrast to the way the perception of status symmetry was established in the lead-up to the Havana negotiations. There were no direct meeting between the Colombian President and the FARC leadership, as all the initial exploratory phase was kept secret and conducted through intermediaries. There was no involvement of high-profile third party actors such as the UN, nor was there an explicit change of status of the FARC or a recognition of the group's political nature. Instead, we saw low-key and indirect acknowledgment of a status being established through the 'linguistic ceasefire' and a form of perceived parity of esteem established through the act of pre-negotiation itself.

Moreover, while ahead of the Caguán the Colombian government granted the FARC a demilitarized area the size of Switzerland thereby acknowledging the group's territorial presence, it is the FARC that acknowledged the government's dominance on the battlefield in the lead-up to Havana by establishing a number of unilateral ceasefires. Similarly, the fluidity and ease of contact, which led to direct capacity building for the FARC by internationals and Colombians in the late 1990s, was soon replaced by the criminalisation of direct contact and an increase in the FARC's isolation in the context of proscription.

This discussion on the perception of these different sources of power reinforces the analysis of how proscription affected ripeness. It also impacts on perceptions of a mutually hurting stalemate and the envisaging of a way out, which is what the next chapter turns to.

Chapter Seven

Ripeness: the mutually hurting stalemate and the way out

Introduction

In October 1999, as the negotiations in the Caguán were about to start, more than eight million Colombians took to the streets calling for peace. This was the culmination of months of pro-peace marches across the country and increasing peace activism in Colombia since the mid-1990s. Waving banners bearing the slogan “No Mas” (“No More”), people were calling on the Colombian government and the FARC to end thirty-five years of war. What was striking about these marches, in a highly divided society, is that they brought together people from a range of backgrounds. This confluence of different sectors of society brought together business people, grassroots activists, and women’s organisations. In the capital Bogotá alone two million people marched.

In February 2008, again millions of Colombians took to the streets only this time the slogan was “No Mas FARC” (“No More FARC”). Chanting: “No more kidnapping, No more lies, No more killing, No more FARC,” people marched down the streets of Bogotá and all major Colombian cities. This time, the marches were one-sided, supporting the Uribe government and against the FARC. A counter-march was organised a month later on the 6th of March, with a much smaller turnout, aimed at highlighting the plight of victims of state crimes and paramilitary violence. In this intensely polarised context, nobody was talking about peace.

These two opposing images illustrate the complete reversal in how the Colombian public perceived the conflict before and after 9/11 in the context of international proscription. In the lead-up to the Caguán negotiations, Colombians were marching jointly against the war and demanding that all armed actors should stop the bloodshed and negotiate a peace agreement. In contrast, well into President Uribe’s second term, the marches of 2008 showed a deeply polarised society, the large majority of which did not see an armed conflict in Colombia but a fight against a group of ‘terrorists’ who were attacking society. But in 2008,

even though it looked like the FARC had ‘lost’ the war and the majority of public opinion was against them, the situation was not yet ‘ripe’ for resolution.

Ripeness is the keystone of the conflict resolution literature to understanding and explaining why parties initiate peace negotiations. As Chapter 4 described, the two central ideas of ripeness are the mutually hurting stalemate and the way out. Parties are in a deadlock that is painful for both of them (the mutually hurting stalemate), so they seek an alternative (way out). Central to these processes is the issue of perception. Indeed, there is no such thing as an objective mutually hurting stalemate or way out, it all depends on how the conflict parties perceive the situation, their assessment of the pain they experience or the opportunities they see. The pain felt by the parties is not necessarily felt to the same degree or for the same reasons and it can have both a military and a political component.

Chapter 4 also argued that the way out is as, if not more, important than the stalemate in explaining the timing of peace negotiations. Sometimes the way out even takes over from the mutually hurting stalemate to lead parties towards a mutually enticing opportunity – when both sides can see the benefits of negotiating. Furthermore, the point was made that the way out is as much about intra-party as inter-party dynamics. Both parties have to be able and willing to negotiate so the party *itself* has to see a way out. In the case of the armed group, the shift in the ‘institutional equilibrium’ of the group is key in understanding how the situation becomes ripe.

The aim of this chapter is to assess how proscription affected these central dynamics of ripeness. There is a prevalent understanding that the Colombian government and the FARC got to the negotiation table in Havana because the FARC were cornered and weakened so much they did not have another option; they were militarily forced to the negotiation table.²⁸¹ Proscription, the logic would go, played a key part in this by weakening the armed group. However, a closer look at these dynamics through the lens of ripeness shows a different

²⁸¹ See for example The Economist (2016): “Under Álvaro Uribe, who followed Mr Pastrana as president, the paramilitaries demobilised and the FARC guerrillas were battered so hard that they agreed, in 2012, to start peace talks with the government of Juan Manuel Santos, Mr Uribe’s successor (and his former defence minister).” For a more scholarly iteration of such an argument see D. Davies, D. Kilcullen, G. Mills and D. Spencer (2015) *A Great Perhaps? Colombia: Conflict and Convergence*. The edited book’s inside jacket notes: “In 1999, FARC and ELN rebels were literally at the gates of Bogota, and Colombia was a country synonymous with the antics of Pablo Escobar, known primarily for rapacious corruption, weak government, drug smuggling and criminality. Fifteen years later the guerrillas, seriously weakened, have been persuaded to attend peace talks in Havana”.

picture. While proscription undeniably weakened the FARC, it also worked against the mutually hurting stalemate by bolstering the government to such an extent that it clouded its perception of a stalemate. Moreover, proscription also worked against ripeness by blocking the way out. The chapter goes on to explore how these challenges were overcome. Two ideas help us explain the fact that the parties got to the Havana negotiations, the ‘linguistic ceasefire’ and the ‘political landing strip’.

The chapter first turns to how the mutually hurting stalemate and the way out developed over time in the period leading-up to the Caguán negotiation in the 1990s before the FARC were proscribed as a ‘terrorist’ organisation. This helps the analysis add nuance to the concepts and our understanding of the 1990s pre-negotiation process, which then serves as a useful comparison to explore the post 11 September 2001 environment. The chapter then turns to analysing how proscription affected the Colombian government and the FARC’s perception of the mutually hurting stalemate and way out.

I. The path to the Caguán

As the opening paragraph shows, the 1990s were marked by very intense peace activism, which turned the prospect for peace into a prominent issue during the 1998 Presidential elections. While President Samper had been willing but unable to initiate a negotiation with the FARC, President Pastrana was elected based on the premise that he would deliver a negotiation with the FARC. The FARC also realised they needed to convert their military successes into political recognition. There was no mutually hurting stalemate in the lead-up to the Caguán negotiation but as we will see in this section, there was a political stalemate and a way out that led to a mutually enticing opportunity. Civil society played a key role in marching the government and the FARC to the Caguán negotiations table.

1. No way out

When President Ernesto Samper took office in 1994 he made his intention to engage directly with the FARC clear. He announced that the search for “integral peace and useful dialogue” (Samper 1994) would be a central plank of his mandate. He took a number of concrete steps in that direction such as recognising

the political nature of guerrilla organisations and the armed conflict²⁸² (Samper 1994; García-Peña 2008), and he created the office of the High Commissioner for Peace (Ramírez Ocampo 2008).

However, as we saw in Chapter 6, the ‘8000 process’, the scandal that emerged a year into President Samper’s term that showed his campaign had been funded by drug trafficking money, rapidly thwarted his plans. This institutional crisis deeply de-legitimised President Samper and left him with little room for manoeuvre to initiate peace negotiations.²⁸³ Augusto Ramírez Ocampo (2008) looking back at that period argued that if it had not been for the ‘8000 process’, dialogue would have moved forward considerably. The FARC, who had initially expressed willingness to enter into exploratory dialogue with Samper’s government²⁸⁴, rapidly claimed the government was illegitimate and called for President Samper to step down.²⁸⁵ The ‘8000 process’ made it impossible for the government to initiate peace conversations with the FARC and as a result the FARC ended-up having no partner to do business with. As a consequence, there was no inter-party way out.

The scandal was not the only thing standing in the way of initiating peace negotiations. The Samper government itself could not see a way out because of contradictory intra-government dynamics. President Samper had an incredibly tense relationship with the Colombian armed forces. Key factions within the Colombian military were not in favour of initiating peace negotiations with the FARC. They even publically undermined the President. At the time, President Samper had agreed with the FARC to demilitarize the region of La Uribe to allow for a first direct encounter with the armed group. General Bedoya publically questioned President Samper’s approach. Following General Bedoya’s public attack, President Samper reneged on this initial agreement, La Uribe was not demilitarized and the first direct meeting did not take place. Carlos Holmes Trujillo, who had been nominated by President Samper as the first High Commissioner for Peace, resigned in protest at the President’s volte-face

²⁸² By establishing Law 418, Ley de Orden Publico 418 from 1994 that came into effect in 1997.

²⁸³ Carlos Lozano, Director of *Semanario Voz* and Member of the Communist Party, *Personal interview*, May 2015, Bogotá, Colombia. Same point made by Alvaro Leyva, Conservative politician and long-time FARC intermediary, *Personal interview*, October 2015, Bogotá, Colombia.

²⁸⁴ FARC-EP, 1994, ‘La guerra total de Gaviria, un gran fracaso’, Secretariado Nacional, Montañas de Colombia, July; FARC Secretariat. 1994. ‘Carta Abierta Del Secretariado Nacional de las FARC-EP Al Presidente Ernesto Samper: Dialogar hasta conseguir un tratado de paz’, 19 August.

²⁸⁵ FARC-EP, 1996, ‘El Mandato Samper-De la Calle es ilegítimo’, 11 February.

(Villarraga Saramiento 2008). The intra-party dynamics on the government side were so tense that they did not allow the government itself to envisage a way out.

The way out was blocked because of contradictory intra-party dynamics within the government and the fact that the government was unable to offer an inter-party way out to the FARC because of its legitimacy crisis. Moreover, there was no mutually hurting stalemate between the parties.

2. No military stalemate but a mutually enticing opportunity

As noted in Chapter 6, the 1990s were the years of the FARC's military dominance, during which they shifted from guerrilla warfare to a war of movements and succeeded in incurring a number of strategic blows against the Colombian armed forces. The perception of the FARC was that there was still the likelihood of further military successes on the battlefield. González Posso (2009) recalled speaking with Marcos Calarcá, the FARC's representative in Mexico, towards the end of 1997. Calarcá said "it is a matter of time but we are in the final stretch towards power" (quoted in González Posso 2009: 57). The quote illustrates that the FARC did not feel in a deadlock and still thought they could escalate the confrontation. The situation was not painful for them.

The armed confrontation was more painful for the government who at that stage felt weak and ill equipped as we saw in chapter 6. But the two parties were not in a deadlock; the military pain was not felt on *both* sides. There was no military stalemate between the Colombian government and the FARC in the period leading-up to the Caguán. The ones that were feeling the pain of the war most intensely were the civilians. The high humanitarian costs of the conflict were becoming unbearable for large sectors of the Colombian population. This spurred civil society actors to take the lead in pushing for a negotiated solution to the armed conflict. So, while the political establishment was unable to move forward to explore negotiations with the FARC during the Samper Presidency, as we saw earlier, because of the lack of inter-party and intra-party way out, a large movement for peace emerged. This 'Mandate for Peace', mentioned in Chapter 6, played an important role in ripening the situation ahead of the Caguán and creating a mutually enticing opportunity for the armed actors.

On 26 October 1997, in parallel to the local elections in Colombia, 10 million votes were cast in favour of a 'Mandate for Peace'. This vote was the

culmination of months (and years) of peace activism, including a series of public “No More” marches as we saw in the opening paragraph to this chapter. According to Teresa Bernal (2008), the founder of REDEPAZ, the national network of citizen’s initiatives for peace and against war, founded in 1993, the new Colombian constitution of 1991 greatly encouraged civic initiatives. The new Constitution included article 22, which gave Colombian citizens the ‘right to peace’.

The period was marked by a burgeoning of civic initiatives aimed at getting the conflict parties to the table. The mid-1990s in Colombia saw the emergence of social and urban movements ‘for peace’, ‘against war’, ‘against violence’, ‘against kidnapping’. A plethora of networks and initiatives were created such as REDEPAZ, women’s organisation networks, business groups, non-governmental organisations were all working on a range of issues all related to stopping the violence. What was unusual in the Colombian context was the breadth of these initiatives, which included a wide spectrum of society, including powerful elites and business leaders.²⁸⁶ As Camilo Gonzalez Posso noted, “You saw a confluence of many parts of society focussed on ending war and pushing for negotiations.”²⁸⁷

The Colombian Catholic Church also played a key role during this period. When the Church witnessed the government backtracking vis-à-vis the FARC under the Samper administration, it decided not to give up on the idea of a negotiated solution and created the Comisión de Conciliación Nacional (CCN) in 1995. As Padre Echeverri, a member of the CCN recalled, “The Church did not resign itself vis-à-vis the FARC”. He said that at the time they thought “we cannot just leave it to the military option that only leads to pacification not to peace” so their “decision was to create the CCN.”²⁸⁸ The CCN was mandated and authorised by the government to have direct communication channels with the FARC.

It is during this period, principally through the leadership of Monseñor Luis Augusto Castro, then Bishop of San Vicente del Caguán, that the CCN got the

²⁸⁶ On 18 June 1997 the representatives of the country’s principal economic groups (Santo Domingo, Luis Carlos Sarmiento, Carlos Ardila Lulle) asked President Samper to initiate a peace process (Villarraga Sarmiento 2009).

²⁸⁷ Camilo González Posso, Former President of the Instituto de estudios para el desarrollo y la paz (INDEPAZ), *Personal interview*, June 2015, Bogotá, Colombia.

²⁸⁸ Padre Dario Echeverri, National Secretary of the Comisión de Conciliación Nacional, October 2015, Bogotá, Colombia.

FARC to release 60 soldiers and 10 infantry members which ended-up becoming an important confidence building measure explored in Chapter 6. Asked how he explained this success, Padre Echeverri said, “The Church presence is in areas where the guerrilla is strongest. This allowed us to access the armed actors and their social bases. We find bridges with their social base and we start building trust with them.”²⁸⁹ Beyond their humanitarian role, the CCN was also mandated by the government to dialogue with the FARC in Costa Rica to explore conditions for future peace negotiations.²⁹⁰

The multiple peace movements, the role of the Church, the marches and the ‘Mandate for Peace’, had an obvious impact on the government. Initiating a peace negotiation became a political imperative. The overwhelming mobilisation by civil society in effect created a political stalemate. The perception of the government was that they were weak and failing. As a member of the Colombian military notes, “We felt weak at the time. The decision to start negotiations was a political decision.(...) The political will obeys the will of the people.”²⁹¹ Similarly, a number of civil society actors interviewed said that it was undeniable that they had a deep impact, “It is civil society that asked for peace and had an impact on the government”.²⁹² As Jesús Antonio Bejarano (1999: 202), former peace councillor under presidents Barco and Gaviria, wrote a few months before being assassinated in 1999:

We cannot speak of a military stalemate in Colombia. But I would argue that the intensity of the conflict and its effects on the entire civilian population are reaching the point that would oblige elite sectors of society to make concessions.

As we saw in Chapters 5 and 6, President Pastrana won the Presidential race by strategically shifting his campaign towards the search for peace between the two rounds of the election. His triumph was to get his representative, Victor G

²⁸⁹ Padre Darío Echeverri, Head of Pastoral Social and Secretary of the Comisión de Conciliación Nacional, *Personal interview*, October 2015, Bogotá, Colombia.

²⁹⁰ FARC Secretariat. 1996. ‘Comunicado: reunion en Costa Rica entre las FARC, La Comisión de Conciliación Nacional y un representante del Gobierno Costarricense’, 24 and 25 June.

²⁹¹ Coronel Carlos Arturo Velásquez, Member of the strategic command on transition, *Personal interview*, October 2015, Bogotá, Colombia.

²⁹² Rosa Emilia Salamanca, Executive Director of Corporación de Investigación y Acción Social y Económica (CIASE) in Colombia, *Personal interview*, October 2015, Bogotá, Colombia. Similar point made by Mauricio García-Durán, Former Executive Director of the Centro de Investigación y Educación Popular (CINEP), *Personal interview*, June 2015, Bogotá, Colombia.

Ricardo, to meet directly with the leader of the FARC, Manuel Marulanda.²⁹³ The photo of Marulanda wearing President Pastrana's campaign watch quickly did the rounds, making Pastrana the undeniable 'peace candidate' which helped clinch the election in his favour.²⁹⁴ This change in leadership was key in setting the stage for the Caguán negotiations. For the government, the peace negotiations became a political necessity.²⁹⁵ Victor G Ricardo (2009:33) later reflected that the "one who needed oxygen was the State not the guerrilla".

The FARC on the other hand initially underestimated and misread the 'Mandate for Peace' and, at the time, had called for its boycott (González Posso 2009). They accused the 'Mandate for Peace' of being "linked to the government's political and economic interests" (Villarraga Saramiento 2009: 89). But, a few months later the FARC did show some acknowledgment of the 'Mandate for Peace'. Alfonso Cano, then member of the FARC's Secretariat had a radio-telephone call with the civil society spokespersons of the 'Mandate for Peace' alongside Francisco Galán of the ELN in February 1998. A couple of years earlier, the FARC had also explicitly thanked the CCN for their work in "bringing the parties in conflict closer together to achieve national reconciliation" and expressed their openness for dialogue in a joint communiqué (FARC, CCN & Costa Rica 1996). This shows that at a minimum, the FARC were aware of the clamour for peace emerging from civil society though they would not have felt electorally bound by it, unlike the government.

Though it was for different reasons than the government, the FARC's incentive to initiate peace negotiations was also strongly political. They realised that winning military battles was not enough, they needed to gain political legitimacy and networks that they could not get out of war. As one interviewee put it: "Before the Caguán the FARC were winning the war but thought they should convert the military success in political capital. The FARC realised they were not being applauded for winning battles."²⁹⁶ For the FARC, peace

²⁹³ Victor G Ricardo, Former High Commissioner for Peace, *Personal interview*, October 2015, Bogotá, Colombia.

²⁹⁴ Ibid; Carlos Lozano, Director of *Semanario Voz* and Member of the Communist Party, *Personal interview*, May 2015, Bogotá, Colombia; Camilo González Posso, *Personal interview*, June 2015, Bogotá, Colombia.

²⁹⁵ Point echoed by Teófilo Vasquez, Researcher, Centro Nacional de Memoria Histórica, *Personal interview*, May 2015, Bogotá, Colombia.

²⁹⁶ Carlos Velandia, Former commander of the Ejército Nacional de Liberación (ELN) and appointed 'Peace Manager' by the Santos administration, *Personal interview*, June 2015, Bogotá, Colombia.

negotiations were about getting political recognition.²⁹⁷ The prospect of public peace negotiations were appealing to the armed group because they saw it as an opportunity to re-engage politically, re-establish networks and make the most of the public nature of the dialogue.

There were however divergent views within the FARC on the timing of the negotiation. While some members of the central command were convinced by the importance of negotiating for political reasons at this stage, others thought it was distracting them from winning the war militarily. Victor G. Ricardo recalled a conversation he had with Alfonso Cano who apparently said to him, “I have never been friendly with the idea of sitting at the table and I do not know what you told them but we had to put a number of our plans that would have brought us closer to power in the freezer.”²⁹⁸ Victor G Ricardo said the conversation surprised him because he had not realised there were differences in opinion within the FARC until that time. Even though there were divergent views within the FARC, the ‘institutional equilibrium’ had shifted in favour of negotiations on the basis that they was an opportunity “not to end the war but to reconnect with Colombian society, to strengthen itself politically”.²⁹⁹

There was thus no mutually hurting stalemate between the Colombian government and the FARC in the lead-up to the Caguán negotiations. They each had reached political stalemates of sorts, each for different reasons:

Both sides considered that it was the opportune moment for negotiations. Pastrana based on the weakness of the State; and the FARC guerrilla convinced they were at the ‘end of the end’ and that all the advantages were in their favour.³⁰⁰

In a pre-proscription context however, civil society had the ability and political space to establish direct contact with all conflict parties to call for a negotiated solution. Civil society actors were able to put pressure by increasing the political costs for the armed actors. Citizens helped foster a way out for the parties by putting peace negotiations squarely on the political agenda. This is a

²⁹⁷ One of the FARC’s main objectives with peace dialogues (1999-2002), and concretely through the *despeje* of 5 municipalities, was to advance in their recognition of belligerent status according to Ferro Medina and Uribe Ramón (2002). The *despeje* gave a formal character to their territorial control. Moreover, the FARC took a number of other steps to get their belligerent status recognised, such as wearing uniforms and visible weapons and developing relations with different governments in Latin America and Europe (Ferro Medina and Uribe Ramón 2002).

²⁹⁸ Victor G Ricardo, *Personal interview*, October 2015, Bogotá, Colombia.

²⁹⁹ Teófilo Vasquez, *Personal interview*, May 2015, Bogotá, Colombia.

³⁰⁰ Lozano (2008: 52)

case of a mutually enticing opportunity. Based on political necessity, the way out became the motor towards negotiations. The space and possible role played by civil society actors would shift completely post 9/11 in the context of international proscription.

II. Proscription and the road to the Havana negotiation

The 11 September 2001 attacks on the Twin Towers, and the onslaught of the war on terror which happened at the tale-end of the Caguán negotiations, gave a whole new meaning to the FARC being listed as a terrorist organisation internationally. Chapters 5 and 6 already noted many of the material and symbolic consequences of this for the FARC and the government. This section assesses how these effects influenced ripeness for both actors. It also tries to understand how, in a context where proscription led to the mutually hurting stalemate being postponed and the way out blocked, the Colombian government did eventually end up negotiating with the proscribed FARC. The ideas of the ‘linguistic ceasefire’ and the ‘political landing strip’ are brought to the fore to understand how these challenges were overcome.

1. The effect of proscription on the military stalemate

While most analysts highlight how the FARC were battered and bruised to the negotiation table, little attention has been paid to what this entailed for the government. If the FARC were deeply affected by the military onslaught buoyed by proscription, it also bolstered the government symbolically and materially, which had the effect of postponing the mutually hurting stalemate in military terms.

i. Postponing the pain for the government

One direct material consequence, as we saw in Chapter 6, particularly of the US proscription regime, was the shift in 2002 of the US financed Plan Colombia resources from a war against drugs to a war against ‘terrorists’ focussed on the FARC. This shift dramatically increased the armed forces’ budget, equipment and

intelligence.³⁰¹ Following this modernization, the army was able to retake control of the territory and hit the FARC deeply on a number of fronts.³⁰²

By taking on the global mantle of the fight against terrorism in Colombia, President Uribe was able to gain international and national recognition and legitimacy for his fight against the FARC. Coupled with the re-focussing of Plan Colombia on a fight against terrorists and the huge investment and modernisation of the army, this had the effect of strengthening the Colombian government vis-à-vis the FARC. This interaction of the symbolic and material effects of proscription also had the effect of skewing perceptions³⁰³ as it helped convince the government, and large sectors of the Colombian population, that the war could be and should be won and ended militarily.

I think the main impact of the war on terror has been Uribe's Democratic Security Policy. It is the natural expression of this phenomenon. It has had a big impact on the collective imaginary, it changed the culture mentally.³⁰⁴

As late as July 2010 President Uribe was still claiming that the "final victory is not far off" (cited in El Tiempo 2010). He upheld this belief right until the end of his Presidency. The "unconstrained side" (Grieg and Diehl 2012), in this case the Colombian government, felt supported nationally and internationally by proscription and this had the effect of postponing the government's perception of a military stalemate.

It is only between 2008-2010 that the military component of the stalemate starts being felt within certain circles of the government. Significantly, the neuralgic centre of this shift happened in the military and the ministry of Defence, when President Juan-Manuel Santos was still President Uribe's Minister of Defence (between 2006 and 2009). The Colombian army itself started becoming aware of its limits. There was a growing realisation that both the topography of Colombia and the nature and *modus operandi* of the FARC as an armed organization made the likelihood of a 'military victory' elusive. The head of the armed forces, General Alejandro Navas, said that a military victory against the

³⁰¹ The number of professional soldiers increased from 20,000 to 78,000 between 1998 and 2007 and the armed forces acquired 27 new helicopters according to the Colombian Ministry of Defense (2007).

³⁰² Between 2002 and 2006, according to the Colombian Ministry of Defense (2007), the number of homicides reduced by 40%, the number of hostage taking for ransom by 83%, and the number of 'terrorist attacks' by 61%.

³⁰³ Over 80% of the (polled) Colombian population considered the guerrilla to be mere "delinquents" (Centro Nacional de Memoria Histórica (2012: 23).

³⁰⁴ Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

FARC was not possible because of its “group” leadership system (*un sistema de mando colegiado*) through the Secretariat. Every time a leader is killed he is replaced by another: “Here fell Mono Jojoy, died Manuel Marulanda Velez, were killed Raul Reyes and Alfonso Cano, one and the other, and nothing happens because the command is collegiate” (quoted in El Nuevo Siglo 2012). General Colón echoed a similar sentiment: “Even though you are able to kill leaders and you move forward, there are still rising from the land and they will never end.”³⁰⁵

A certain conviction starts to emerge within the military and the Ministry of Defence that the war would not be won militarily. This got them to start thinking of different strategies and options. As one member of the armed forces put it:

We knew the solution would be political, not always, but we have done a strategic revision of our operations. In 2002, at the end of the Caguán we were close to 26,000 guerrillas. We managed a significant decrease under Uribe but realized the levels started plateauing. This made us conclude that we will not get them militarily. I remember an article called ‘How Terrorist Groups End’³⁰⁶, we identified certain behaviours of the FARC linked to this and thought we need to look at other options.³⁰⁷

According to his brother, Enrique Santos, Juan-Manuel Santos “had the perception that the FARC was affected militarily but was still there, he realized that a military victory was not possible, Colombia is not Sri Lanka.”³⁰⁸ He later took this perception along with him as he started his Presidency in 2010. As Francisco de Roux said, “Having been minister of defence [Santos] realized that even though you can put the FARC against the wall, weaken them, but you cannot overcome them because of Colombia’s complex circumstances.”³⁰⁹ Leadership change was an important element in the government’s shift in perception of the military component of the stalemate. The new leader, in this case President Santos, was someone who had shifted his perception from the inside as Minister of Defence and carried this change into his presidency.

³⁰⁵ General Rafael Colón, Director, Acción Integral Contra Minas Antipersonal, Presidencia de la República, *Personal interview*, June 2015, Bogotá, Colombia.

³⁰⁶ He is referring to a study by RAND (Jones and Libicki 2008) which shows that military force has rarely been the primary reason for ‘terrorist’ groups to end their activities. They concluded that in 43% of the cases it was because they joined the political process.

³⁰⁷ Capitán de Fragata Omar Cortés, Member of the government negotiation team, sub-commission on the end of the conflict, *Personal interview*, October 2015, Bogotá, Colombia.

³⁰⁸ Enrique Santos, President Santos’ brother and government negotiator, *Personal interview*, June 2015, Bogotá, Colombia. Similar point made by Padre Francisco de Roux, Jesuit Provincial, *Personal interview*, June 2015, Bogotá, Colombia.

³⁰⁹ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

ii. FARC and the impact of the government's military onslaught

The FARC was deeply affected by the military reversal during the two Uribe administrations. Proscription played a central part in this. The Colombian military, thanks in large part to the material support received by the US, developed sophisticated techniques to identify the location of the FARC's top leadership and attack them. International proscription also made strategies such as targeted killings and rewards appear legitimate in the context of combating terrorism as we saw in Chapter 6. In 2008 a series of attacks against 'high value targets', led to the killing of key leadership figures such as Raul Reyes and Iván Ríos. These assassinations of important commanders had a "very hard effect" on the FARC.³¹⁰ Moreover, high rewards were given for internal treason. These rewards led to a number of internal betrayals that had a deep impact on the FARC.³¹¹ The most famous case was that of FARC Secretariat member, Ivan Ríos, who was killed by his bodyguard in March 2008 who then cut off his hand as proof to claim the reward.

Between 2002 and 2010 the FARC lost five out of its seven Secretariat members. Though the FARC had a group leadership style, with a system to automatically replace fallen commanders, the sheer volume of deaths had an important impact at the leadership level of the armed group. But beyond that as well, the mid-ranking commanders and the rank and file of the armed group were also deeply affected by the military onslaught.

According to the Group for Humanitarian Attention of Demobilized People (Grupo de Atención Humanitaria al Desmovilizado - GAHD), 15,500 FARC members defected between 2002-2010 (quoted in Jonsson 2014). According to Michael Jonsson (2014: 243), this very large number of defections from the FARC can be explained by the group's "*war-time experiences*". These experiences were a crucial motivational factor for leaving the guerrilla:

Summarizing sentiments expressed repeatedly during interviews, it seems that combatants were willing to face severe risks and hardships for extended period of times, but not certain death without any prospect of exiting the group or winning the conflict. (Jonsson 2014:252)

³¹⁰ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

³¹¹ Ibid.

As the Colombian military had been able to increase the frequency and precision of its bombardments on FARC camps thanks to increased material and intelligence support, certain death became a reality for the FARC mid-ranking commanders and rank and file members. A number of interviewees confided that the increasing precision of the bombardments was affecting the FARC's moral.³¹²

The FARC come to see that a military victory is no longer within their reach. They no longer had the capacity to expand, "the guerrilla realizes it is much more weakened militarily."³¹³ As Carlos Velandia, a former member of the ELN said, "The tendency is clear, the blow is real and the impact is real. They [FARC] are conscious of their precarious situation."³¹⁴ Velandia adds that unlike the ELN, which is an armed group that is more societal in nature, the FARC's main strength was military so they felt the pressure more strongly.³¹⁵ The year 2008, which was also marked by the (natural) death of Manuel Marulanda, the founder and leader of the FARC, became a 'turning point' (Gross Stein 1989) for the FARC. Most interviewees concur in saying that at this stage, in 2008, the FARC start perceiving that they cannot be defeated nor can they win.³¹⁶

The FARC is hit badly. They start losing the capacity to operate like an army. Afterwards there is the death of important commanders. The support of the US allows the Colombian military to develop sophisticated techniques to identify the location of the leadership to bomb them. The effect on the guerrilla is very hard. There is a high number of individual demobilization, young men leaving the guerrilla. Another development, which was also very hard for the FARC, was the internal betrayal to give-in commanders.³¹⁷

It is the perception by the FARC that things had changed militarily that is important. Even though the Uribe administration had been saying for years that the FARC had been cornered and defeated, it is only from 2008 onwards that the FARC *itself* show signs of recognizing and acting on it. Similarly, it is only between 2008- 2010 that sectors within the government start perceiving that a

³¹² General Rafael Colón, Director, *Personal interview*, June 2015, Bogotá, Colombia. Point also made by Alvaro Leyva who has deep knowledge of the FARC, Alvaro Leyva, *Personal interview*, Bogotá, Colombia, October 2015.

³¹³ Fernán González, Coordinator of the Peacebuilding and Development Programme at CINEP/ Programa por la Paz, *Personal interview*, June 2015, Bogotá, Colombia.

³¹⁴ Carlos Velandia, *Personal interview*, June 2015, Bogotá, Colombia.

³¹⁵ Ibid.

³¹⁶ Peace and development advisor, *Personal interview*, June 2015, Bogotá, Colombia; Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia; Fernán González, *Personal interview*, June 2015, Bogotá, Colombia; Luis Eduardo Celis, Advisor, Fundación Paz y Reconciliación, *Personal interview*, May 2015, Bogotá, Colombia.

³¹⁷ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

military victory against the FARC will remain elusive. Proscription played a role both in getting the FARC to feel that they could no longer win the war and feel the military component of the stalemate but it also played a role in clouding the government's perception of the military component of the stalemate.

2. The effect of proscription on the political stalemate

As we saw in Chapter 6, international proscription gave support to the government in its fight against terrorists. The military felt buttressed to attack the FARC not as insurgents or guerrillas, but as 'terrorists'. But this shift had human rights repercussions, which led certain elements of the government to feel political and economic pain.

i. Feeling the pain of human rights for the government

International proscription led to symbolic and material support for a shift in the type of war being fought. The government and the army felt supported in using increasingly pugnacious counter-terrorism methods. One analyst recalled:

The characterising of these people as terrorists by the US and the EU is the basis on which Uribe establishes his whole strategy with a huge media component. This characterisation allowed things that would have never been allowed in another context: EJE's [Extra-Judicial Executions], torture etc. The idea is that you, the citizen, will accept it because it will save you.³¹⁸

In this context, President Uribe focussed his strategy on attacking the internal enemy, which steered the government to increasingly employ a number of dubious strategies. According to civil society representatives, President Uribe used the issue of terrorism to justify putting the war above the law and the Constitution. Some highlight the deep impact it had on Colombia's social fabric. Referring to the case mentioned above of Ivan Rios' hand being cut off for a reward, one civil society activist said:

It did not just polarise us, it fractured us. Things like being encouraged to denounce your neighbours. Or certain symbolic acts that were very intense, like giving money in exchange for the arm of a *guerrillero*. This sort of thing had never happened. A society that starts learning that if I denounce somebody I will be given money is changed deeply.³¹⁹

³¹⁸ Andrei Gómez-Suárez, Director of the Rodeemos el Diálogo (ReD) Foundation, *Personal conversation*, October 2015, Bogotá, Colombia.

³¹⁹ Rosa Emilia Salamanca, *Personal interview*, October 2015, Bogotá, Colombia.

Once these strategies were in place for a while the political costs associated with them become increasingly apparent. It is during President Uribe's second term that a number of scandals erupted which shed light on some of the political, particularly human rights, costs associated with these strategies. The extra-judicial executions, the Departamento Administrativo de Seguridad (DAS) scandal, and parapolitics scandals in particular made the Colombian government lose a lot of national and international credibility.

Human rights group inside and outside Colombia had been raising the alarm bells for some time on extra-judicial executions conducted by the Colombian military but it is only in 2007, the year they increased exponentially³²⁰, that the issue started receiving attention from the Colombian government. Extra-judicial executions were being performed by Colombian soldiers, killing non-combatants, dressing them-up as members of the FARC or the ELN and claiming that they had been killed in combat. Though the Colombian military maintained that these extra-judicial executions were not part of the military doctrine and were a case of particular individuals that strayed from the "values of the military"³²¹, these extra-judicial executions need to be understood in a context of an incentive structure within the Colombian military aimed at increasing the 'results' of the war which linked the numbers killed to the pay and holiday received by soldiers (ABColumbia 2009).³²²

By 2008, a number of actions had been taken by President Uribe following mounting international and national pressure, including the dismissal of 27 high-ranking military personnel including three army generals and a change in the incentive structure for pay and holidays. The weekly political magazine *Revista Cambio* reflected on the surprising nature of these dismissals, especially at a time of military success. It concluded that for President Uribe

The perception that the armed forces could eliminate civilians could erase what had been achieved through the long chain of military victories (...) From a political point of view the good image of the Democratic Security strategy (...) is a capital that cannot be risked. The motivation [also] has to do with the increasing preoccupation

³²⁰ Between January 2007 and June 2008, 535 cases of extra-judicial executions were recorded compared with 1,122 in the five-year period 2002-2007 (Coordinacion Colombia Europa Estados Unidos 2008).

³²¹ General Rafael Colón, Director, *Personal interview*, June 2015, Bogotá, Colombia; Capitán de Fragata Omar Cortés, *Personal interview*, October 2015, Bogotá, Colombia.

³²² This information on extra-judicial executions should be understood in the context of a general increase in International Humanitarian Law (IHL) violations on the part of state actors since 2001. According to CINEP, IHL violations by security forces increased steadily from about 100 violations a year in 2001 to about 500 in 2007 (CINEP 2008).

about this situation of the international community. (*Revista Cambio* cited in Villarraga Saramiento 2013).

During the same period, the Colombian intelligence agency, the DAS, also came under close scrutiny. It appeared that not only was it illegally intercepting the communications of journalists, members of NGOs, political leaders and anybody considered as “opposed to the government” and with potential links to ‘terrorists’, but the governmental agency was also threatening them (Semana 2009). The increase in international humanitarian law and human rights violations by the armed forces and the security agency need to be understood and put in the context of the links between the Colombian army, political class and paramilitary forces which had grown exponentially in the 1990s. The *parapolitica* or paramilitary-politics scandal came to the fore between 2008 and 2009 thanks to the work done by investigative journalists, academics and victims groups. They highlighted the deep nexus between Colombia’s political class, particularly President Uribe’s party, and the paramilitary groups. By July 2012, 45 congressmen and seven governors had been convicted for ties with paramilitaries (Alsema 2012).

The extra-judicial executions, DAS and parapolitics scandals made the Colombian government lose a lot of national and international credibility.³²³ As noted above, by the end of Uribe’s mandate there was a growing awareness amongst certain government sectors, that the military offensive had not been sufficient and was reaching its limits. Key sectors in the military and the ministry of Defence also became aware of the human rights costs associated with the strategies pursued. As one retired Colonel reflected: “We won the armed war (...) We won that little war but war is not just military. What is missing is the unarmed component. The unarmed war is in the population. So what? We will finish off the population, the villages? No.”³²⁴

It is thanks to the emergence of strong human rights advocacy groups and social movements (indigenous, victims and women’s movements) that these issues got on the national and international agenda. These movements “played a

³²³ “The State was clearly battling its own legitimacy problems on all fronts such as extra-judicial executions, parapolitica. I think what they recognized is that they did not need more in terms of military pressure but needed to switch the type of negotiation offered.” Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia.

³²⁴ Colonel Carlos Arturo Velásquez, *Personal interview*, October 2015, Bogotá, Colombia.

key role by concluding publically that there is no difference between the armed actors”.³²⁵ The population they represented bore the brunt of the violence by all armed actors – the paramilitaries, the army and the guerrillas. Unlike in the lead-up to the Caguán negotiation, when civil society groups were mobilising and calling for peace and had direct access to all armed actors, these groups mobilised around the issue of human rights and were not able to explicitly access the FARC. These are also the same groups that bore the brunt of stigmatization as ‘terrorist-sympathisers’ by the Uribe administration for questioning the military strategy and refusing to fall into the ‘you are either with us or against us’ dichotomy that had become prevalent. This has to be understood in a context where the labelling of individuals as “guerrilla collaborators” or “terrorist sympathisers” was used as a justification by paramilitary groups for targeting and assassinating civilians (Rojas 2005: 229).

While President Uribe did not appear to be hugely affected by these human rights concerns, President Santos appeared more sensitive to them especially when these human rights concerns led to economic cost. A key moment took place when the US Free-Trade Agreement was put on hold linked to concerns over human rights violations and the US started slowly reducing their unequivocal support to the Colombian military.³²⁶ This slight shift in a key ally, and its main support in its war against ‘terrorists’, had an impact on the Colombian government. President Santos started feeling the political pain of the war on terror. He was much closer than President Uribe to the international liberal business elite. There is also an increasing feeling within government ministries that the war was limiting their ability to act, both in terms of particular areas of the country that were ‘out of reach’ but also in terms of developing infrastructure, roads, connectivity.³²⁷ There is a strong business component to President Santos’ perception of the government’s political stalemate: “Santos realized that the biggest obstacle for a stronger economic development in Colombia is war.”³²⁸ The government started feeling the political costs associated with their military

³²⁵ García-Durán, Mauricio, Former Executive Director of CINEP, Colombia, *Personal interview*, June 2015, Bogotá, Colombia.

³²⁶ Teófilo Vasquez, *Personal interview*, May 2015, Bogotá, Colombia.

³²⁷ Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia; General Rafael Colón, *Personal interview*, June 2015, Bogotá, Colombia; Carlos Velandia, *Personal interview*, June 2015, Bogotá, Colombia.

³²⁸ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

strategy. It is the political component of the stalemate that led the parties to realise they had reached a dead end.

ii. Insulating themselves: the FARC's political perception

The counter-terrorism framing of the conflict politically de-legitimised the FARC in the eyes of many external observers. But to what extent did the FARC *feel* politically de-legitimised? There were differences between the national and local impact of proscription which need to be explored to understand how the FARC were able to insulate themselves from perceiving the political pain of proscription.

Politically, the FARC were already discredited following the collapse of the Caguán negotiations in the eyes of Colombian public opinion, but President Uribe made strategic use of the post-9/11 environment to reinforce this idea. As we saw in Chapter 6, proscription helped de-legitimise and isolate the FARC symbolically and materially both at the national and international level. It made the construction of their political relations nationally and internationally much more challenging.

It was not just that the FARC were 'terrorists' that could not be negotiated with but also that because there was no conflict in Colombia, just a democracy at war with a bunch of terrorists, the FARC became seen as the main problem – if you get rid of the FARC you get rid of the problem. As the two contrasting paragraphs at the opening of this chapter make apparent, while in the lead-up to the Caguán Colombians marched against the conflict as a whole, calling on all armed actors to negotiate, by Uribe's second term, people were marching just against the FARC.

What is clear is that Uribe has beaten the FARC politically. This has been a political victory, public opinion is completely against the FARC. The marches in 2006 and 2008 for peace were mainly against the FARC (and against hostage taking). The polarization in the country has become more extreme.³²⁹

President Uribe had succeeded in diminishing the FARC politically, and proscription played an important role in that process. But did the FARC themselves perceive this shift? Luis Eduardo Celis points out that though "Political pressure increases in 2002 with the terrorist framing" and the feeling was widespread that the FARC could be "politically defeated", "the FARC has

³²⁹ Fernando Sarmiento Santander, Coordinator, Citizenship and peace team, CINEP/ Programa por la Paz, *Personal interview*, May 2015, Bogotá, Colombia.

created a self-perception from their direct relationships with peasant-farmers.”³³⁰ Their increased isolation meant that they had been interacting with people with a similar world-view. The FARC were able to insulate themselves from feeling the political pain. The FARC continued to believe they represented the interests of peasant-farmers and that they played an important political role. As one member of the FARC put it: “In rural areas we are the new power, where the government has never been, we represent justice, the power, legitimacy, we are the ones who help with productive projects. (...) People see that and support us.”³³¹

The ‘terrorist’ label had a differentiated impact at the national and the regional or local level. While the terrorist framing clearly dominated nationally and in urban centres, at the local level in the countryside and in the FARC’s historical strongholds, it does not appear to have had a similar impact. One high-level UN staff said, “In the countryside whether or not they are called terrorists doesn’t change things much”.³³² Similarly, looking at the region of Nariño, a border region where the FARC have had an a historical presence, Idler and Paladini Adell (2015:135) argued that local level stakeholders “define their agendas based on their understanding of everyday people’s necessities, and not based on the rhetoric of the armed struggle and the terrorism/counterterrorism dynamics.” So, while proscription dominated the narrative and framing at the national level as we saw in Chapter 5, and it pushed the FARC towards political isolation nationally, it had the affect of restricting the armed group to much more localised interactions. These localised interactions in turn were not as focussed on the terrorist framing, so the FARC’s actual self-perception was not particularly affected.³³³

However, one aspect that did appear to shift the perspective of the FARC’s leadership level on their political role was the generational changes within the organization. Compounded by the targeting and killing of key leadership figures and the desertion of key mid-ranking FARC cadres, the FARC leadership started to become painfully aware that the younger generations were not as political. They were struggling to fill the mid-level positions with the necessary political

³³⁰ Luis Eduardo Celis, *Personal interview*, May 2015, Bogotá, Colombia.

³³¹ Isabel Sanroque, Member of the gender sub-commission, FARC negotiating team, *Personal interview*, May 2016, Havana, Cuba.

³³² Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

³³³ In my interviews with them, FARC members showed very little self-perception of the extent of the Colombian population’s dislike for them.

and military training and inclination. While the senior leadership of the FARC at this stage was mainly comprised of ideological Marxist-Leninist commanders who had joined the group in the 1960s and 1970s, the rank and file joined in the 2000s when the group had already compromised its ideological basis by depending substantially on drugs and kidnapping to fund their fight. Each FARC cadre had to have both political and military training – there was no separation between the two - and the armed group had found it increasingly difficult in practice because new recruits did not all have political inclinations: “For young people, managing weapon is much more attractive than political debate” (Ferro Medina & Uribe Ramón 2002: 82). These younger FARC leaders appeared to be less ideologically inclined. Sources close to the FARC said that these new leaders also had less links with local communities and struggled more to gain their respect (quoted in International Crisis Group 2012).

With the FARC it is possible to say that at its top there is an important group that can be describes as ‘believers’.(...) The problem is at the mid-ranking and base level, where the training of new combatants is not contributing to the generation of new ‘believers’. (Ferro Medina & Uribe Ramón 2002: 92)

The possibility of a negotiated solution to the conflict became more appealing to the FARC in the context of trying to salvage what political capital they still had: “There is a big difference between the Secretariat and the rank and files. The ideological part of the FARC saw negotiations as the only way forward [they want to] leave with some kind of legacy.”³³⁴ So, it is possibly more the risk of completely losing their political character rather than the FARC feeling politically de-legitimized by proscription per se that played an important part in the FARC Secretariat’s assessment of its situation. That, coupled with the intense military reversal and the realization that they could no longer win the war, meant the FARC started perceiving a hurting stalemate in 2008. The FARC’s perception of the mutually hurting stalemate is epitomised in the words of Marcos Calarcá: “They haven’t been able to win and we haven’t been able to win – there are no winners, no losers.”³³⁵

³³⁴ Gimena Sánchez-Garzoli, Senior Associate for Colombia, Washington Office on Latin America (WOLA), *Personal interview*, April 2014, Washington D.C.

³³⁵ Marcos Calarcá (Luis Alberto Albán Burbano), Member of the FARC negotiation team and International Secretariat, *Personal interview*, May 2015, Havana, Cuba.

Even though the FARC is the classic example used in the literature of a highly hierarchical and monolithic organization, it appears that dialogue within the group was essential in bringing about this deep change in strategy: “The FARC had an internal dialogue and decided that they want to get out but by the big door, not through the window.”³³⁶ Generally speaking, a decision of this importance will be made by finding consensus at the leadership level and then communicated to the troops. There was opposition to the idea within the Secretariat of the EMC; certain leaders were reluctant. Iván Marquez, for example, remained unenthusiastic for a long time even though he later became part of the FARC’s negotiating team in Havana. There was also a large difference of opinion between those that had left the country and those that had continued fighting the war in Colombia. Those that stayed and bore the brunt of the military onslaught buttressed by proscription, figures such as Alfonso Cano, Timoleón Jiménez, Pastor Alape or Pablo Catumbo, had come to recognise that the FARC did not have a military future.³³⁷

Here again leadership change played an important role in ripening the situation. Alfonso Cano played a central role. Interestingly, he had been against the decision to enter into negotiations at the time of the Caguán because he thought the FARC still had the ability to gain more from the battlefield.³³⁸ This shows that there is no such thing as fixed preferences and individuals being squarely in the ‘hawk’ or ‘dove’ camp within armed groups. Instead it is more helpful to think about armed groups as the sum of its part, as an ‘institutional equilibrium’. All my interviewees with in-depth knowledge of the FARC said that Alfonso Cano led an internal process by consulting with others until he managed to get unity around the idea of entering peace negotiations. As one FARC leader noted: “I feel there was a shift towards peace through a strong debate.”³³⁹ The FARC had a systematic discussion at the leadership level weighing-up their different options looking at their political and military reality, exploring their international and regional space. There was a complex shift of a quasi-relative

³³⁶ Monseñor Luis Augusto Castro, Former Bishop of San Vicente del Caguán, former President of the Comisión de Conciliación Nacional, *Personal interview*, June 2015, Bogotá, Colombia.

³³⁷ Fernán González, *Personal interview*, June 2015, Bogotá, Colombia; Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

³³⁸ Teófilo Vasquez, *Personal interview*, May 2015, Bogotá, Colombia. Confirmed by Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia, and Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

³³⁹ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia. Similar point raised by Luis Eduardo Celis, *Personal interview*, May 2015, Bogotá, Colombia.

minority who wanted to enter into negotiations led by Cano that had started strengthening with this thinking starting to trickle down to the rank and files. One member of the FARC remembers “an internal communiqué (*circular*) from Alfonso Cano in September 2010 where he gave some elements [of an openness to peace negotiations]“.³⁴⁰

By 2008 both the FARC and the government were starting to feel the pain of a mutually hurting stalemate with military and political components. But why did it take another two years for the FARC and the government to enter into pre-negotiations and another two to enter into formal negotiations? Part of the answer lies in understanding that a party feeling a hurting stalemate is not enough, it also needs to envision a way out. But with President Uribe and the framing of the conflict as a war against terrorists there was no way out.

3. No Way Out (2002-2010):

President Uribe started off his presidency reframing the armed conflict as a war against terrorists. During his inaugural address President Uribe (2002) painted the picture that would define his two terms, that of a democratic state under attack from terrorists: “When a democratic State provides effective guarantees, even if it comes to do so gradually, any violence against it is terrorism. We do not accept violence as a means of attack on the government, or as a means of defence. Both are terrorism.”³⁴¹

This was covered extensively in Chapter 5, but it is worth re-stating that the international proscription of the FARC legitimised this shift in discourse. President Uribe was able to reframe the conflict as a war against terrorists and even banned the use of the words ‘armed conflict’ to describe the situation in Colombia. By denying the existence of the armed conflict, peace negotiations with ‘terrorists’ become unthinkable. By de-politicising the FARC the only option that remained open for the group was to surrender and demobilize (similar to the experience with the paramilitaries). The possibility of peace negotiations under Uribe was based on the logic of “subjecting the FARC to justice and not negotiating the basis of the state”.³⁴² Throughout his presidency, Uribe maintained

³⁴⁰ Alexandra Nariño (Tanja Nijmeijer), Member of the FARC negotiating team, *Personal interview*, May 2016, Havana, Cuba.

³⁴¹ Uribe, Á., 2002, ‘Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social’, Bogotá, 7 August.

³⁴² Andrei Gómez-Suárez, *Personal conversation*, October 2015, Bogotá, Colombia.

the prerequisite that the FARC should accept a ceasefire (Villarraga Saramiento 2013) building on the idea that a ‘terrorist’ group, which is ‘holding-up’ society needs to give-up its weapons if it wants to talk.³⁴³

The only avenue being explored throughout President Uribe’s two terms is the possibility of a humanitarian exchange, a swap between hostages held by the FARC and FARC prisoners held by the State. Under much international pressure, President Uribe mandated and in turn demoted a number of intermediaries including representatives of the Catholic Church, Hugo Chavez and Piedad Cordoba to facilitate an exchange. But people closely involved with this process concluded that President Uribe never had any real intention to come to an agreement and that the debate around the humanitarian exchange was a way of superficially demonstrating to the world his good intentions.³⁴⁴ In the words of Monseñor Luis Augusto Castro, President of the CCN and mandated intermediary, “President Uribe never took seriously the idea of ending the war through dialogue. It was about killing the last guerrilla.”³⁴⁵

Even if the government had wanted to enter into peace negotiations with the FARC, it no longer had any room for manoeuvre. It had created its own policy-straight jacket by convincing the public and international opinion that the Colombian government should not negotiate with ‘terrorists’. So, the government had no way out of the reliance on a military strategy, they were neither willing nor able to negotiate. The other side of the coin is that the FARC ended up with no partner to do business with, so there was no inter-party way out. According to the FARC, “For many years under Uribe there was no direct contact between the FARC and the Colombian government. Only towards the end he contacted us but it was towards the end of his mandate, it didn’t make sense, better to wait.”³⁴⁶ This can be explained by the fact that the FARC did not consider President Uribe to be a valid interlocutor as he denied the existence of the armed conflict and of the FARC’s political condition. When Timoleón Jiménez, who succeeded Alfonso

³⁴³ “That is the way to start a serious peace process that starts with a cessation of violence. The United Nations Charter teaches us that in order to dialogue with those who commit acts of terror, it is essential that these acts be suspended.” Uribe, Á., 2002, ‘Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social’, Bogotá, 7 August.

³⁴⁴ Marleny Orjuela Manjarrés, President of the Asociación Colombiana de Familiares de miembros de la fuerza publica retenidos y liberados por grupos guerrilleros (ASFAMIPAZ), *Personal interview*, October 2015, Bogotá, Colombia; Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia; Monseñor Luis Augusto Castro, *Personal interview*, June 2015, Bogotá, Colombia. Add detail about how Uribe tried to sabotage and refer back to the judicial investigations of all people who played intermediary roles

³⁴⁵ Monseñor Luis Augusto Castro, *Personal interview*, June 2015, Bogotá, Colombia.

³⁴⁶ Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

Cano as leader of the FARC, later reflected on why negotiations were never seriously attempted with President Uribe, he said: “With Uribe it was not possible because of his blatant disregard of our political condition” (Jiménez quoted in Lozano 2012).

So the FARC itself could not envision a political future under President Uribe. One of the FARC’s four conditions vis-à-vis the government to initiate a peace negotiation was that the government should “Recognize our political character and stop signalling us as “terrorists”” (FARC quoted in Villarraga Sarmiento 2013:68). As we saw in Chapter 5, the FARC minded the label. Not so much because they accepted the ‘stigma’ – indeed, they ‘rejected’ it. Yet, it still had the effect of taking away their legitimacy, their political recognition externally. Materially as well, their politics were banned and pushed further underground. They were increasingly isolated from broader Colombian society and internationally. There was no space for them to do politics. It is important not to forget that the decimation of the Unión Patriótica in the 1980s, the FARC’s ill-fated attempt at creating a political party, is a deep wound they carried. It created much distrust in the possibility of political participation, they were not convinced they would receive the necessary security guarantees. This is especially the case in a context where being signalled as a ‘terrorist sympathiser’ often led to the killing of individuals with political affinities with the FARC. The FARC believed they had no political future, so they had little incentive to enter into a dialogue process with President Uribe. The FARC *itself* could not see a way out with President Uribe.

In a context where there is no inter-party nor intra-party way out, there is also no alternative to this situation because there is no space for civil society actors to act as intermediaries - unlike in the lead-up to the Caguán. Because of proscription, any links with the FARC was criminalised, and civil society could not establish direct contacts with the group inside or outside Colombia. As Mauricio García-Durán noted:

Listing changed the contact with civil society – because of the risk of being considered a terrorist actor. The construction of political relations became more complicated for the FARC. Interaction became mediated through groups and individuals that had been closer to them,

people who knew them from [the time of] Casa Verde and [the] Caguán.³⁴⁷

This applied not just to Colombians but also to foreigners. The case of Jean-Pierre Gontard, the Swiss emissary who was prosecuted for contacts with the FARC mentioned in Chapter 6, is a case in point. Beyond the direct engagement with the listed group that was prohibited, any action construed as dialogue with them was also very much discouraged. A senior UN staff member recalled that:

It did not stop us working on peace but it was a conception of peace that has nothing to do with it. It was about *peacebuilding* (post-conflict) rather than *peacemaking*.³⁴⁸

Contacting the FARC outside Colombia, as had been the case in the lead-up to the Caguán with the CCN in Costa Rica, for example, was impossible because of the material implications of proscription. After the international proscription of the group, the FARC had to shut down all its offices abroad. They lost contact with civil society networks and governments. Marcos Calarcá who had been representing the FARC in Mexico at the time said that “they started going against our international commission with capture orders from Interpol”³⁴⁹. They no longer had *voceros*, or spokespeople, whom third parties could contact and engage with.

Under President Uribe’s two terms there was no way out of the military confrontation. Even though both conflict parties were showing signs of feeling the mutually hurting stalemate they had nowhere to go. Proscription made it impossible for the Colombian President and the FARC to initiate peace negotiations.

4. Creating a Way Out (2010-2012)

Before being elected President, Juan Manuel Santos had felt the political and military costs of the war against ‘terrorists’ in Colombia. Now elected, he found the policy-straight jacket, tailored during President Uribe’s tenure based on the idea that the Colombian government should not negotiate with ‘terrorists’, itchy and tight fitting. He decided to unfasten it and slowly started fostering the way out. But in 2010, public opinion in Colombia and factions in the government and

³⁴⁷ García-Durán, Mauricio, *Personal interview*, June 2015, Bogotá, Colombia.

³⁴⁸ Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

³⁴⁹ Marcos Calarcá, *Personal interview*, May 2015, Havana, Cuba.

the military were completely against the idea of negotiating with ‘terrorists’³⁵⁰ as we saw in Chapter 5. Undeterred, he started slowly shaping the possibility. In his inaugural address, President Santos said he held the “keys to peace”. His brother in his memoirs of this period reflects that it is an interesting and audacious statement in a moment when public opinion “does not want to hear about terrorist groups they consider cornered and practically liquidated” (Santos Calderon 2014: 19).

i. ‘Linguistic ceasefire’

An important component of the way out was President Santos putting in place a ‘linguistic ceasefire’ as described in detail in chapter 5. This linguistic ceasefire had three main components: President Santos (1) recognised the armed conflict; (2) stopped using the ‘terrorist’ label to describe the FARC; and (3) uncoupled the actor from the acts. This ‘linguistic ceasefire’ annulled the symbolic effects of proscription. It helped the government start fostering the political space to launch a negotiation in Colombia by unpicking eight-years of denial of the armed conflict. President Santos was also sending direct signals to the FARC that he recognized them politically as a party to this armed conflict. In sending a clear signal to the FARC about his “seriousness” (Hernandez 2014), Santos was making use of what Jonathan Powell (2014) characterised as ‘megaphone diplomacy’ in lieu of direct contact.

At the same time, Santos sent a first letter to the FARC through an intermediary in which he explicitly recognized the armed conflict. According to Carlos Lozano, a long-time intermediary to the FARC:

This letter is the one that convinces Cano that one can trust Santos. It was difficult to think that a process with Santos was possible because he came from the Uribe government and he had been saying that Uribe was the second Liberator of Colombia. It seemed impossible. But this letter makes Cano say “man this is important.”³⁵¹

These steps went a long way in convincing the FARC that the government was willing and able to negotiate. The FARC had clearly stated in their communications that a key reason they decided to enter into a negotiation with this particular government is the fact that Santos took seriously the recognition of

³⁵⁰ Santos did not abruptly changed tacks a year into his presidency as asserted by Delagdo (2015); Enrique Santos, *Personal interview*, June 2015, Bogotá, Colombia.

³⁵¹ Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia.

the ‘armed conflict’. That in essence is “the real break with the Uribe agenda”.³⁵² This is what helped foster the inter-party component of the way out.

But the armed group *itself* also needed to perceive a way out – a political future. The ‘linguistic ceasefire’ went some way in giving them a sense of the political landscape being normalised. If they were no longer described as terrorists and were re-contextualised in the armed conflict and re-politicised then a political future seemed more likely. As Ivan Marquez, the FARC chief negotiator in Havana, said in his address to the European Parliament (by Skype) in January 2016: “This [removal from the terrorist list] would take away a serious obstacle to normalization of Colombian political life and would ensure the process of reintegration of former rebel fighters into civil life.” But this change in language and discourse, which annulled the symbolic effects of proscription, was not enough. The FARC also needed to see the possibility of a concrete political future.

ii. Political landing strip

This can be seen as an instance of a “political landing strip” which enabled the proscribed armed group to envision another path to achieving its goals. As set out in Chapter 4, there are three main levels to the political landing strip: 1) international level; 2) national level; 3) local level. Each of these will be explored in turn. Interestingly, most of the actors that played a role at these different levels were either not aligned with the ‘global war on terror’ or found ways of circumventing the proscription regimes.

Internationally, the armed group needed to have countries or examples of armed groups that have made successful political transitions and were ideologically similar. In the case of the FARC, this role was played by the left-wing governments who got to power in Latin America in Venezuela, Ecuador, Cuba, El Salvador and Bolivia. At a time when the FARC were starting to feel at risk of losing what they had gained, the political changes in the region showed them that there were other “valid political paths for revolutionaries” apart from the armed struggle.³⁵³ The coming to power of left-wing governments in Venezuela, Ecuador, El Salvador and Bolivia gave them new prospects. You also

³⁵² Senior Analyst, International organisation, *Personal interview*, 29 May 2015 Bogotá, Colombia; Fernando Sarmiento Santander, *Personal interview*, May 2015, Bogotá, Colombia.

³⁵³ Carlos Velandia, *Personal interview*, June 2015, Bogotá, Colombia.

had at least five governments in the region that included ex-guerrillas such as the FLMN in El Salvador for example. These governments, which are ideologically close to the FARC, show them that “there is an alternative that is not the alternative of war so they start seeing that there is a possible horizon.”³⁵⁴

In interviews with the FARC, they highlighted the important role played by Latin American countries: “The conjecture in Latin America played a role, having a number of progressive neighbours helped, it is not the same being surrounded by friends and democracies that consider that we have principles and are fighters [*luchadores*]”.³⁵⁵ The FARC were particularly enthused by the Venezuelan model, the idea that a revolution can be reached through elections.³⁵⁶ President Chavez of Venezuela played a particularly important role in this process (Lozano 2015). As Chapter 6 noted, President Chavez helped bring the FARC around. In a state of the union speech given on the 11 January 2008, President Chavez asked for the belligerent status to be granted to the FARC and demanded that the European Union and other Latin American countries remove the FARC from the lists of terrorist organizations (CNN 2008). But Chavez also had directed specific messages towards the FARC, stating that the time for armed action was over and invited them publically to enter the realm of normalized politics. The FARC themselves acknowledged that “Comandante Chávez played a fundamental role in allowing this process to start”.³⁵⁷

At the national level, Colombian@s - a collection of Colombian civil society actors and intellectuals - played an important role. While Chapter 5 noted the role they played in the FARC’s self de-vilification, and Chapter 6 noted how they allowed the FARC to release hostages in an important confidence building measure with the government, here we explore the role they played in allowing the FARC to engage in a form of public political conversation. In a context where civil society organisations, academics and journalists could not be seen to engage the FARC in conversation let alone dialogue, Colombian@s succeeded in evading the contact ban by starting a public epistolary exchange with the FARC. This letter exchange was an innovative way of circumventing the proscription regime. As Danilo Rueda from Colombian@s said, the letter exchange “facilitates a

³⁵⁴ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

³⁵⁵ Alexandra Nariño, *Personal interview*, May 2016, Havana, Cuba.

³⁵⁶ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

³⁵⁷ Isabel Sanroque, *Personal interview*, May 2016, Havana, Cuba.

dialogue that is not possible to do directly because of the legal persecution” (quoted in Hernández Delgado 2012: 455). Moreover, “The epistolary exchange was a means to protect the group of people involved in Colombianos and Colombianas por la paz because it is a way of publically presenting what was being done”.³⁵⁸

They sent their first public letter in September 2008 engaging the FARC on the possibility of a humanitarian exchange and hoping to “generate a democratic debate over issues of peace and war in Colombia” (Colombianos and Colombianas por la Paz 2008). Colombian@s were very candid about their views on hostage taking which they described as “inhumane” (Colombianos and Colombianas por la Paz 2008b) and asked the group to give-up the practice. In response to the Colombian@s request, the FARC acquiesced and answered that “frankly the perpetuation of these methods is neither within our ideology nor our principles”.³⁵⁹ Colombian@s succeeded in engaging the FARC in a public dialogue over a period of two years. This gave the FARC a platform to have political exchange and conversation at the national level. Between September 2008 and 2012 the group had exchanged 45 letters with the FARC. These exchanges led to the release of forty hostages and to the FARC announcing in February 2012 that they would renounce the use of kidnapping (Hernández Delgado 2012).

Finally, at a local level, the groups that are the FARC’s natural habitat, that are trusted by the FARC, start getting organized as grassroots civil society movements with the formation of the associations of peasant-farmers (Asociaciones Campesinas de las Zonas de Reserva Campesina) and political movements such as the Marcha Patriótica. These groups had often born the brunt of stigmatization and attacks for being terrorist-sympathisers, but they were essential in creating a ‘political landing strip’ for the FARC. As one interviewee put it:

These groups come in with a new discourse saying there is a need for peace. They consider themselves with the same ideology as the FARC but do not share the armed strategy. They start showing the FARC that a political path is possible.³⁶⁰

³⁵⁸ Carlos Lozano, *Personal interview*, May 2015, Bogotá, Colombia.

³⁵⁹ Jiménez, T., 2012, ‘Comunicado: Carta a la Señora Marleya Orjuela, ASFAMIPAZ, Bogotá’, Commandante del EMC, Montañas de Colombia, 3 March.

³⁶⁰ Padre Francisco de Roux, *Personal interview*, June 2015, Bogotá, Colombia.

A range of interviewees with in-depth knowledge of the FARC concurred in saying that, from a political perspective, it was very important that these movements developed.³⁶¹ One United Nations official said that they decided to support and fund a number of the organizations that are affiliated to these social groups, such as the peasant movement organizations (LANZORC, AZCAMCAT) and Caguán Vive, for example, in order to send a message to the FARC that there was a space for political and social participation.³⁶²

In essence, these movements allowed the FARC to see a political way out at the national and sub-national level. They can “play the role of political platform, a kind of landing strip for the FARC”.³⁶³ The FARC did not affiliate themselves directly with these groups in a post-agreement scenario. But in the pre-negotiation phase they played an important role in showing them the possibility of a political option and for them to know they had a social-political platform with support.

Conclusion

The FARC were battered and weakened militarily ahead of the Havana negotiations and proscription played an important role in this by underpinning the Colombian military both symbolically and materially. Yet, the FARC only show signs of perceiving this shift and acting on it from 2008 onwards. Proscription also appears to have helped convince the government that the war could be won militarily, thus clouding its perception of the military component of the mutually hurting stalemate.

There is no such things as an ‘objective’ mutually hurting stalemate, it is down to each conflict parties’ perception of it. Crucial to this perception is the political component of the stalemate that led the parties to realise they had reached a dead end. In the case of the government, there were a number of political costs associated with the counter-terrorist strategy being pursued, which actually led the government to realise that their strategy was no longer sustainable politically and economically. In the case of the FARC it was not the political de-legitimization that came hand in hand with proscription per se, it was more the risk of

³⁶¹ Fernando Sarmiento Santander, *Personal interview*, May 2015, Bogotá, Colombia; Gimena Sánchez-Garzoli, *Personal interview*, April 2014, Washington D.C.; Teófilo Vasquez, *Personal interview*, May 2015, Bogotá, Colombia; Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

³⁶² Senior UN staff, *Personal interview*, October 2015, Bogotá, Colombia.

³⁶³ Fernando Sarmiento Santander, *Personal interview*, May 2015, Bogotá, Colombia.

completely losing their political identity which led to a shift in the institutional equilibrium within the group.

Proscription had a deep impact on the way out. The reframing of a war against ‘terrorists’ meant that there was no space to negotiate with them. Proscription played a key role in politically de-legitimising the FARC and ensuring they could not envision a way out. It also ensured that unlike before 9/11, there was no space or possibility for civil society or other actors to engage with the armed actors and help foster a way out. Proscription also became a policy straight jacket for the government and the only way to overcome it was to redress the rhetoric and discourse around the conflict and the FARC, which was described as a ‘linguistic ceasefire’. This helped foster a sense of inter-party way out. But, to be able to envisage a negotiated exit the FARC also had to perceive a political future. This was described as a ‘political landing strip’ where actors who were either not ‘aligned’ with the proscription regime or were able to circumvent it played a crucial role.

The next chapter will bring together the analysis of Chapters 5, 6 and 7 to assess the overarching effect of proscription on the pre-negotiations between the Colombian government and the FARC. It will also reflect back on the analytical framework and apply it to the case of ETA and the Basque country to assess its applicability to other cases.

Chapter Eight

The effect of proscription on initiating peace negotiations

Introduction

This thesis was born out of a desire to understand how international proscription affects negotiations and peace processes. Because of the lack of scholarly research on the topic, the scope was narrowed to the particular effect proscription has on the pre-negotiation phase of peace processes. A key contribution to the literature was the development of an analytical framework to study its effects. The framework explored the material and symbolic effects of proscription and how they have affected three key pre-negotiation dynamics, namely the move from vilification to de-vilification, going from a situation of asymmetry to perceived symmetry and from feeling a mutually hurting stalemate to envisioning a way out. Chapters five, six and seven formed the heart of the thesis' empirical analysis. By comparing and contrasting pre-negotiations before and after international proscription and 9/11, these three chapters assessed how each of these central dynamics were affected in the case of the Colombian government and the FARC.

The aim of this chapter is to bring together insights from the analytical framework and the Colombian case studies and explore their applicability to other, similar cases. The chapter proceeds as follows. In the first section the chapter draws together key findings of the comparative analysis of the two pre-negotiation processes between the Colombian government and the FARC, honing in on the effects of proscription on the initiation of peace negotiations. In the second section, the thesis' analytical framework is applied to the case of the Basque country. Through a broad-brush analysis based mainly on secondary sources,³⁶⁴ the chapter examines the effects of proscription on the initiation of peace processes in a different context. The conclusion assesses the robustness of the analytical framework and its applicability to other similar cases before

³⁶⁴ Mostly on Teresa Whitfield's excellent work, in particular her 2014 book, *Endgame for ETA*, in which she details and analyses all previous peace negotiations in the Basque country and ETA's unilateral transition. I also bring in some insights from my past practitioner work in the region and a couple of personal interviews with relevant parties.

broadening out to some general findings on the effect of proscription on the nature of peace itself.

I. The effect of proscription on the pre-negotiation between the Colombian government and the FARC

While the labelling of opponents in conflict is widespread and mainly reflects one party's judgment, international proscription, by creating a category with international recognition, leads to material and symbolic implications, which in turn affect the processes of pre-negotiation. Bringing together the analysis of the three core empirical chapters allows us to assess the effects of proscription on the initiation of peace negotiations in the Colombian context.

1. Material and symbolic effects of proscription

Asset-freeze and travel bans are the two essential material keystones of international proscription regimes. These measures are implemented in the hope of denying listed armed groups the means of waging war by cutting their resources and affecting their ability to operate internationally. In the case of the FARC in Colombia, proscription had little material effect on the armed group's access to resources as the group did not depend on diaspora money and had alternative sources of funding (mainly based on the drug business). The travel ban did not seriously affect the ability of the FARC to move around. It was more the banning of the group itself, particularly in Europe, which affected its movements.

The symbolic impact of proscription was the most important. This confirms much of the recent findings in the sanctions literature. The FARC were deeply de-legitimised by the listing internationally and nationally. Though they rejected the label it stuck. International proscription shaped the meta-narrative of how the Colombian conflict became understood – a fight against terrorists. The listing led to the political and social exclusion of the FARC, their 'symbolic banishment' (de Goede 2012). While this finding is relatively unsurprising, what this analysis also shows is that alongside the de-legitimation of the armed group, international proscription legitimised the government to such an extent that it affected the type of war being fought and the possibility of resolving it peacefully. Because international proscription legitimised the idea that the FARC should be fought as 'terrorists' it led to specific counter-terrorism strategies that were supported

internationally. It also deeply de-legitimised the idea of dialogue with the armed group.

This shift in the international environment had severe material implications in terms of military and intelligence support to the government in the case of Colombia because of the particular role of the US. Similarly, the international illegalisation of the group itself and the criminalisation of its membership and support meant the FARC had to shut down their offices abroad and were no longer able to operate internationally. This was particularly apparent in Europe where they had previously enjoyed a certain level of support. This shows the importance of studying the material and symbolic effects of proscription in interaction particularly because the most important material effects did not come out of the explicit material components of proscription – for example the asset freeze and travel ban – but were consequences of the symbolic reframing of the conflict as a war against ‘terrorists’.

2. Comparing pre-negotiations before and after 9/11 key findings

The two cases stand in sharp contrast to one another. In the lead-up to the Caguán negotiations, pre-negotiations between the Colombian government were very direct, led by the highest levels of leadership on both sides, the period of pre-negotiation itself was short, the de-vilification was almost immediate. Furthermore, all initial contacts were public, took place in Colombia and were widely advertised. Civil society and third party actors were able to be in contact with both parties. There was a huge mobilisation for peace. In the lead-up to Havana the pre-negotiation was protracted, taking two years, and was completely indirect - the leaders of both parties only met publically two years into the actual formal negotiations. The whole process was kept secret and took place abroad, keeping the FARC isolated from civil society and third party actors.

This thesis does not argue that all these differences can be boiled down solely to international proscription; these processes are incredibly complex and dynamic. However, the analysis made apparent that proscription did deeply influence these processes. One of these was the timing and sequencing of the pre-negotiation dynamics. The actual pre-negotiation in the context of proscription took much longer. One central reason was that a step was added to the process of de-vilification. In the context of proscription a ‘linguistic ceasefire’ had to be put

in place before normal de-vilification could happen. But the ‘linguistic ceasefire’ also became a central component to establish perceived symmetry and for carving a way out for the government and the FARC. In other words, in the context of proscription, the ‘linguistic ceasefire’ became a central pre-condition for the initiation of a peace process.

Linked to this, it became apparent that while the inclusion of the FARC in the broader war on terror and international ‘terrorist’ lists was straight forward for the Colombian government and greatly bolstered their efforts at reframing the conflict as a war against ‘terrorists’, it became much harder to reverse. The extreme vilification of the FARC took on a life of its own, creating a policy straightjacket for the government and blocking the way out. It made it harder for the government to shift its strategy. Because this thesis was focussed on the pre-negotiation phase it only scratched the surface of this effect. While, President Santos was able to initiate an official negotiation thanks in large part to the ‘linguistic ceasefire’, the extreme vilification of the armed group continued to have an impact during the actual negotiations, and in the relationship between the government and the public at large. This is exemplified by the rejection of the peace referendum in October 2016. It has also remained an issue for the on-going transition of the listed armed group into political life and for longer-term reconciliation efforts in Colombia.

Another effect of proscription has been the heightened asymmetry between the government and the armed group. International proscription bolstered the government to such a degree symbolically and materially that the conflict against the FARC stopped being seen as one between similar parties. In contrast to the lead-up to the Caguán where there had been no hesitation on the part of the Colombian government to foster a sense of symmetry with the armed group ahead of the negotiation, in the context of proscription, there was huge reticence to do the same thing. Moreover the FARC were very limited in their efforts to ‘borrow’ power internationally because of proscription. Just enough indirect and discreet parity of esteem was established to get the FARC to the negotiation table, using sidestepping strategies that did not entail political recognition such as having the President’s brother act as a negotiator. But the government remained dominant and firmly in control and refused to have a bilateral ceasefire until after the final

agreement was signed. Proscription appears to have put the burden of proof in terms of confidence building measures squarely on the listed entity.

This extreme asymmetry fed in directly to the impact proscription had on the classic conflict resolution paradigm of ripeness - the mutually hurting stalemate and the way out. The expectation would be that proscription would make the listed armed group hurt – thus fostering ripeness. The FARC did indeed suffer from the heightened military pressure symbolically and materially underpinned by proscription. However, this did not explain their transition. What had the biggest effect on the FARC's leadership was the risk of completely losing their political identity. Proscription also worked against the mutually hurting stalemate because the government was strengthened to such an extent that it delayed them feeling any pain. It is only when they realised that the political costs and particularly the economic costs of the type of warfare that they were engaged in were not sustainable that they start exploring the way out. But the way out was blocked because of proscription.

With proscription there was no space either for civil society or third party actors to help foster a way out. The involvement of third parties had always been sensitive in Colombia, but proscription made it increasingly difficult. In the lead-up to Caguán the type of third parties involved included high-level UN representation and government representatives. In the lead-up to Havana the only third party actors involved could be typified as *weak* or *biased* third parties, mainly representatives of the Church, or actors closer to the armed group. All these actors played a crucial role in helping the FARC envision a political future – creating a 'political landing strip' for them. These actors were able to get around the challenges of proscription by interacting indirectly with the FARC through epistolary exchanges or pastoral dialogues. There was no high-level UN representation or government representatives with clout. The only governments involved were ones that had opted out of the international proscription regime (Norway, Venezuela and Cuba). This was very much a case of third parties being involved in spite of proscription.

The FARC were deeply de-legitimised at the national and international level, which made the construction of their political relations very difficult. At the same time, the FARC's increased isolation meant that they had developed a self-perception from their limited relationships with peasant-farmers, which meant

they were able to isolate themselves from feeling the political pain of proscription. So, while the terrorist framing dominated internationally, and nationally in the urban centres, at the local level in the countryside and in the FARC's historic strongholds the terrorism framing did not take hold in the same way. This differentiated impact of proscription at multiple levels is something that could be explored in much more depth.

The intensive study of one case with two pre-negotiation phases on either side of 9/11, and the international listing of the FARC as terrorists, allowed the thesis to isolate the central effects of international proscription on the initiation of peace processes post-9/11. Analysing the main differences between the two phases and across the one case was important to understand in detail the central dynamics at play. This can also help us understand a larger class of cases. To assess the applicability and usefulness of analytical framework developed, the chapter turns to briefly applying it to a very different case that also fits the research design: the case of the Basque country and the conflict with ETA.

II. Applying the framework to the Basque country

The Basque conflict has its roots in General Francisco Franco's military dictatorship. ETA was a violent secessionist organization created in 1958. Ever since its emergence under Franco's rule it was treated and labelled as a terrorist organization by the Spanish government but certain sectors of the Basque population saw it as the (violent) expression of a political conflict. There was also a broader social and political movement to this struggle, the Nationalist or Abertzale Left, which included a political party called Batasuna.

Every elected leader since the democratic transition in Spain had publically rejected the idea of 'negotiating with terrorists' even though all of them did just that with the exception of Prime Minister Mariano Rajoy (2011-2018). Three significant peace negotiations took place between the Spanish government and ETA:

- January-March 1989 in Algiers with Prime Minister Felipe Gonzalez;
- between 1998-1999 in Geneva with Prime Minister José María Aznar;
- between 2004-2006 with Prime Minister José Luis Rodríguez Zapatero.

All of them broke down before reaching an agreement. The failure of the last attempt sparked a unilateral process of dialogue within the Abrazale Left and ETA, which led to ETA declaring a permanent end to its violence in October 2011.

This section cannot do justice to analysing and dissecting all these different pre-negotiation attempts, and will instead focus on sketching out the effects of international proscription using the thesis' analytical framework homing in on the post-9/11 context. Before doing so however, it is important to briefly outline some key pre-9/11 pre-negotiations dynamics.

1. Before 9/11

Unlike in Colombia with the FARC, pre-negotiations with ETA, even before 9/11, were never open, direct or fluid. Because the armed group was considered to be a terrorist organization nationally, every leader had publically proclaimed they would refuse to negotiate with terrorists. All the initial contacts with the armed group were indirect, through intermediaries, held abroad and secret. Moreover, every Prime Minister had to make a public case to initiate negotiations and receive the backing of Parliament. For example, in 1987 the Spanish Congress allowed the government to have 'technical non-political talks' with ETA, which became known as the Madrid Pact. This set the stage for the pre-negotiation process, which culminated in the Algiers negotiations between January and March 1989.

There was broad consensus across the political spectrum. Both main Spanish political parties, the Partido Popular (PP) and the Socialist Party (PSOE), were aligned on the issue of how to deal with ETA. For example, after the Geneva talks broke down and ETA put an end to its ceasefire in November 1999 the two main parties closed ranks against ETA and produced an anti-terrorism pact. In December 2000 the political parties reaffirmed their commitment to defeating terrorism without making concessions in what became known as the 'Pact for Freedom and Against Terrorism'.

But, while ETA had been considered terrorists in Spain for a long period of time, internationally the group had a certain level of support and wide-ranging contacts, particularly in Latin America and with other national liberation movements (Elejabarrieta Diaz 2015). Moreover, the Abrazale Left and in particular, Batasuna, the political wing, could operate freely in Spain and across

Europe. Batasuna operated like any normal political party. They had not been proscribed or made illegal and in fact even had elected representatives in the European Parliament.

2. After 9/11: material and symbolic effects of proscription

While pre-9/11 the terrorism framing of ETA was already present in Spain and the Basque country at a domestic level, 9/11 changed two fundamental things. First, it led to the international proscription of ETA. It was no longer just Spain calling them ‘terrorists’ but the international community as well. Second, it allowed the Spanish government to also proscribe the political branch of the Abertzale Left, and to do so internationally, which was unprecedented. In the words of a representative of Batasuna, after 9/11 “Aznar took advantage of that scenario to strengthen both Spain’s anti-terror domestic policies and the international cooperation on the fight against the Basque movement.” (Elejabarrieta Diaz 2015:153)

Similarly to the FARC, post 9/11 the fact that ETA had been on the US terrorist list since 1997 took on new meaning. It was incorporated into the broader ‘war on terror’ as Prime Minister Aznar became a key ally to George W Bush by sending troops to Iraq. The armed group was also placed on the EU terrorist list in 2001. This was a significant diplomatic victory for the Spanish government as it was the “first time all 15 member governments have labelled ETA as such” (BBC 2017).

Another deeply significant shift post-9/11 was that the whole political movement was proscribed both nationally and internationally. The ‘global war on terror’ was used by President Aznar to further broaden the counter-terrorist legislation in Spain, including permanently banning Batasuna and other Abertzale Left organisations in March 2003 (Heiberg cited in Haspeslagh and Dudouet 2015: 111). The law on political parties in Spain was amended in June 2002 to ensure political parties could not offer ‘tacit support of terrorism’. The amendment thus made it a requirement for political parties to *explicitly* condemn ETA. Batasuna was not prepared to do so which rendered the party illegal. Banning a political party was a drastic measure and it directly “challenged freedoms of expression, assembly and association, and effectively disenfranchised

those individuals – some 10-15 per cent of Basque voters in this instance – who constituted its electorate.” (Whitfield 2014:103-104)

Not long after Batasuna was made illegal in Spain, the political party was also included in the EU and US terrorist lists in mid-2003. So international proscription affected not only the armed group but also its associated political party:

The decision to ban Batasuna represented the culmination of the counter-terrorist policies pursued by Aznar and clearly favoured the police and judicial defeat of ETA. It would help secure the party’s addition to the terrorist lists in the EU and the United States in mid-2003 (...) it also confirmed that Spain was ready to give up on any prospect of dialogue with radical nationalism. (Whitfield 2014:105)

Similar to the FARC, the direct material implications were not so pronounced for the Abertzale Left movement. At the international level the effect was limited. According to a member of the Abertzale Left, their funding was not affected by the asset freeze.³⁶⁵ Indeed, the armed group did not depend on a diaspora as most of the money was raised locally in the Basque country either voluntarily or through a ‘revolutionary tax’. Similarly, their travel across Europe (except for Spain) was not affected, though they were unable to travel to the US.

The effect was huge symbolically. The international proscription of ETA and Batasuna greatly increased the Spanish government’s legitimacy internationally and domestically. In particular, the EU listing of Batasuna, which had been resisted earlier by a number of member states, shifted the dynamics considerably: “What the EU list did was to give legitimacy to the Spanish government”.³⁶⁶ It also deeply de-legitimised the Basque independent social-political project internationally. While national and international proscription did not bring about the disappearance of the political party, it affected it significantly.

The symbolic de-legitimization also led to material effects. The EU proscription in particular succeeded in isolating Batasuna from mainstream political actors (Elejabarrieta Diaz 2015). In the European Parliament arena, for example, they were only able to remain in close contact with Sinn Féin because all

³⁶⁵ Senior member of Batasuna, *Personal interview*, August 2012, Bayonne, France.

³⁶⁶ Ibid.

other mainstream political parties who were non-nationalists refused to be in contact or associated with them while the party was listed and illegal.³⁶⁷

Moreover, the material implications that came out of the symbolic reframing of the conflict as a war against terrorists were more pronounced. The police and judicial cooperation with EU countries in the government's efforts at defeating ETA were greatly bolstered. It also had concrete material effects on members of Batasuna. The 2002 law on political parties in Spain, which banned Batasuna, complemented on-going police action against ETA. According to members of Batasuna, they could no longer operate easily: "Proscription has also created difficulties for the Basque movement to carry out internal debates and discussions, but it did not prevent them from happening." (Elejabarrieta Diaz 2015: 161). There were financial implications as well as once Batasuna was made illegal it could no longer receive public subsidies for political parties. Moreover, the increased policing compounded by proscription succeeded in putting an end to ETA's lucrative kidnapping and racketeering business (Whitfield 2014:100).

3. Vilification

We saw above that the terrorist framing of the conflict long pre-dated 9/11 in the Basque context. While there is no space to do an in-depth discourse analysis on both sides to trace the (de)vilification processes, it is clear from secondary sources that the vilification of ETA was already extreme pre-9/11. All Spanish governments denied the existence of the armed conflict, ETA was considered to be criminal, irrational, without principles and just a bunch of terrorists that could not be negotiated with.

At the same time, because every government did negotiate with ETA pre-9/11, we also see clear attempts at de-vilifying ETA during pre-negotiation phases. This is similar to the Colombia case and confirms much of the literature on the need for de-vilification ahead of negotiations. We even see attempts at putting in place a 'linguistic ceasefire'. Every time Spanish governments embarked on talks or dialogue with the group, they "implicitly accepted the existence of a conflict of some sort" (Whitfield 2015: 5). Not just a fight against terrorists but an armed conflict with two sides. They used the 'terrorist' tag less frequently and start using other epithets. For example when Prime Minister Aznar

³⁶⁷ Ibid.

addressed ETA as the ‘so-called Basque National Liberation Movement’ (Elejabarrieta Diaz 2015; Haspeslagh and Dudouet 2015) using this descriptor for the first time. Or when Prime Minister Zapatero addresses Ortegi, the leader of Batasuna, as a ‘man of peace’ (Elejabarrieta Diaz 2015).

But, while the rest of the political establishment broadly accepted Prime Minister Aznar’s attempts at a ‘linguistic ceasefire’ with ETA pre-9/11, the picture was completely different post-9/11. Even though Prime Minister Zapatero tried to get international support for his policy shift in favour of dialogue and he received a mandate in May 2005 from the Spanish Parliament to pursue dialogue with ‘those who want to abandon violence’, he came under intense attack. When Prime Minister Zapatero tried to modify his discourse to shift public opinion towards the possibility of negotiating with ETA, the main opposition party (Partido Popular) did not support this shift and even took the extreme step of breaking relations with the government in 2006. Polarization in the country had become more extreme - Zapatero was assailed as a traitor to ETA’s victims and an enabler of terrorist violence (Whitfield 2015).

The role of terrorist victims associations will be explored further below, but what is worth noting at this stage is that ETA’s use of violence against politicians and the terrorism label post-9/11 deeply impacted “the minds of Spanish citizens” and had strengthened structures like terrorist victim’s association (Currin quoted in Haspeslagh and Dudouet 2015: 115).

The level of polarization (fed by the state’s official media strategy) has become so acute in the last few years that it would be challenging to get the public to follow this discursive reversal and the paradigm shift that it underscores. (Rios quoted in Haspeslagh and Dudouet 2015: 115)

In the pre-9/11 environment, when the two main political parties remained broadly aligned on the issue of ETA, when the government of the day shifted its discourse towards the group it was broadly accepted by the other parties. In the post-9/11 environment, the vilification of ETA and the broader Abertzale Left movement in Spain had become so extreme that when Prime Minister Zapatero tried to shift it he was unable to do so. His ‘linguistic ceasefire’ was so vociferously rejected by the opposition party and by the public it never took hold. The government was unable to bring the group back into the realm of ‘normal’ politics so that further de-vilification of the group could effectively take place.

The policy straight jacket the government had created since 9/11 was too tight. This shows the importance of the ‘linguistic ceasefire’ as a necessary condition – without it taking hold further de-vilification of the proscribed groups could not take place.

4. (A)symmetry

International proscription led to clear symbolic and material limitations for the armed non-state actor and its political affiliates meaning that the Spanish government was very much in a dominant position post-9/11. While the Spanish government received explicit support through the international proscription of ETA the real game-changer in terms of the battle over legal and status asymmetry was the international listing of Batasuna in 2003 by the US and the EU. This was unprecedented for an unarmed political party. By succeeding in getting his vision of ‘terrorism inside the European Union’ (Aznar 2002 quoted in Elejabarrieta Diaz 2015: 153) or ‘Basque terrorism’ accepted by international actors, Prime Minister Aznar was able to associate the whole Abrazale Left political-social movement to terrorism. This deeply de-legitimised the movement as a whole and, in the case of Batasuna, as we saw above, put an end to its contacts with mainstream, non-nationalist, political parties in Europe.

In terms of resources and capacities asymmetry the Spanish government was also in a dominant position post-9/11. Its police fight against the listed armed group was bolstered by giving legitimacy to a series of exceptional counterterrorism measures and increased intra-EU cooperation on intelligence and arrests, particularly by the French government and police. However, the asymmetry was not heightened to the extent it had been in the case of the FARC in Colombia because there was no equivalent to Plan Colombia or US military support. It was more a case of increased intelligence and police exchange and cooperation. By 2003, the Spanish government bolstered by the support of EU member states, particularly France, had already seriously affected ETA’s operational capacity. While in the late 1990s ETA conducted approximately 80-armed actions a year, by 2003 this had plummeted to 20 a year – yet ETA still had the capacity to kill on a sporadic basis (Whitfield 2014).

Apart from the international arena where the government won a major battle in terms of its legal status, the Spanish government also ‘borrowed’ substantial

moral power politically at a domestic level from the victims of terrorism associations. The ‘victims of ETA’ became a vocal anti-terrorist lobby and political force that played a complex and sometimes controversial role (Whitfield 2014: 85). Prime Minister Aznar had himself been victim of an ETA attack in 1995. Between 1996 and 2004 Aznar deliberately placed victims of ETA at the centre of counterterrorist policies, which helped legitimize those policies because of the moral authority carried by these victims (Whitfield 2015). But as we saw above, the role played by some of these victims’ organization took on a life of its own and was able to undermine Prime Minister Zapatero’s efforts towards dialogue with ETA. They also had a disproportionate influence over the government of Prime Minister Mariano Rajoy.

The disparity in power between the Spanish government and ETA was significantly heightened by 9/11 and international proscription. The proscription of Batasuna which deeply de-legitimized the whole Abertzale Left movement and the strength of the ‘victims of ETA’ buttressing the government, made it impossible for successive Spanish governments to initiate a negotiation with ETA without the group effectively having to acknowledge defeat. Proscription in the Basque case led to an insistence that terrorists should be offered no concessions in exchange for disarming (Haspeslagh and Dudouet 2015). By effectively asking ETA to surrender, no parity of esteem or perception of symmetry could be established.

5. Ripeness: the mutually hurting stalemate and the way out

Neither a mutually hurting stalemate nor a way out between the Spanish government and ETA emerged. Explaining what led to the negotiations between Prime Minister Zapatero and ETA in 2005, Teresa Whitfield (2015) concluded that there was no mutually hurting stalemate between the parties. Rather it was a case of a mutually enticing opportunity (Zartman 2005)- both sides could see the benefits of negotiating – which is similar to the Caguán negotiation in Colombia.

International proscription played a role in this process, mainly by postponing the military pain of the stalemate for the government and by blocking the way out. Despite the lack of a mutually hurting stalemate on the part of the government, ETA experienced a unilateral hurting stalemate that was political as much as military. Because international proscription had such a negative impact

on the way out between the parties, we saw an innovative unilateral transition on the part of ETA and the Abertzale Left who created their own way out with the help of international third party actors and Basque civil society and political parties. But this no-negotiation scenario meant that a large number of issues remain unaddressed – and that some form of a peace process is still needed.

The Spanish government's security and policing strategy against ETA were greatly bolstered by proscription's symbolic and material implications. Successive Prime Ministers received increased legitimacy for their campaign against the armed group and its political wing and concrete intelligence and policing support. This is similar to the period under President Uribe in the Colombian case, where the 'unconstrained side' (Grieg and Diel 2012) was so emboldened that it postponed their feeling of military pain.

But, unlike the Colombia case, there has not been political pain associated with the strategies pursued. While the government's counter-terrorism strategy did weaken the protection of human rights and the institutions responsible for their protection (Whitfield 2015), it did not lead to direct political pain for the Spanish government. The proscription of ETA and Batasuna at the EU level in particular offered the Spanish state a high level of protection against human rights criticism. One illustrative example of this dynamic was the report on Spain by Theo Van Boven, UN Special Rapporteur on Torture, presented to the UN Human Rights Council in Geneva in 2004. In his report, Van Boven stated that allegations of torture and ill treatment were not fabrications (quoted in Whitfield 2014: 127). The Spanish government took direct steps to discredit Van Boven's work, they walked out of the session and succeeded in convincing all EU member states not to participate in the session. Asked whether this reaction was standard, Van Boven said that no country had reacted so strongly and that EU states could be very protective of their 'own' (Van Boven quoted in Whitfield 2014:128). The listing of Batasuna and ETA at the EU level gave the Spanish government's counter-terrorism strategy increased legitimacy and protected it against any criticism within the EU.

Not only did the Spanish government not perceive either military or political pain to lead them to feeling a hurting stalemate, there was also no way out. The proscription of Batasuna in particular effectively banned the political expression of the Abertzale Left movement. This deeply complicated any efforts for Basque

or Spanish political actors to meet with them let alone have sustained dialogue with them (Whitfield 2014). Coupled with the extreme vilification of the whole Abrazale Left and the role played by the ‘victims of ETA’ movement, the policy jacket tailored was so tight that the Spanish government was not in a position to pursue a negotiation even if they had wanted to. This case differs from that of the Colombian government and the FARC. For a period of eight years under President Uribe there was no way out, a situation that was deeply linked to proscription. Under President Santos it was possible to identify a way out thanks in large part to the ‘linguistic ceasefire’. In the Basque case this was not possible.

During Prime Minister Mariano Rajoy’s terms in office (2011-2018) no negotiations with ETA have taken place nor have there been any pre-negotiation contacts. Prime Minister Rajoy stayed true to the adage of ‘not negotiating with terrorists’. To a certain degree the role played by the ‘victims of ETA’ continued to explain the reticence of the Rajoy government to engage with ETA even though it had effectively unilaterally disbanded after 2011 (Whitfield 2015). There was no possible way out between the Spanish government and ETA and proscription played a major role in this dead end.

So, what explains ETA’s unilateral transition away from violence? And what was the effect of proscription on this process? ETA’s ‘unilateral’ hurting stalemate appears to have been deeply political and its perception of its way out affected by intra-party dynamics within the broad Abrazale Left movement. While state security policies compounded by proscription post-9/11 weakened ETA, they did not play the biggest part in the group’s transition away from violence (Elejabarrieta Diaz 2015; Currin and Rios quoted in Haspeslagh and Dudouet 2015:113; Whitfield 2014). ETA’s transition should be understood through a “combination of factors: the pressures exerted upon the group by anti-terrorist policies and social opposition, but also an unusual unilateral peace process.” (Whitfield 2014b).

There was, of course, a military component to ETA’s stalemate. They felt weak, with so many members imprisoned and they were struggling to operate or recruit. As a result they came to realize that they could not win militarily:

By early 2010 an internal intelligence report described ETA as being ‘at the edge of the abyss’. At this point some 310 alleged members of ETA had been detained in Spain and France since the end of the

ceasefire and the organization was struggling with recruitment. (Whitfield 2014:195)

But the political pain they felt was even more intense. Here the intra-party dynamics played a crucial role. The fact that both the military and the political branch of the Abertzale Left movement were proscribed internationally meant that a range of actors within the Abertzale Left movement felt the pain differently along the lines of Pearlman's (2010) 'composite actor approach'. Because of Batasuna's increased isolation the political and social movements within the Abertzale Left felt the pain more intensely than the military branch that was more used to the stigma and the isolation.

The Abertzale left became deeply concerned about being internationally branded as 'terrorists', very much in line with the typology of stigma rejection (Adler Nissen 2014). This was further strengthened by the Madrid train bombings of 2004. The fact that ETA was initially blamed for the attacks instead of Al Qaeda, made the political branch reflect and want to distance themselves from that type of violence. According to a member of the Abertzale Left, they thought theirs was not "the same random violence".³⁶⁸ Then, after the collapse of the negotiations with Prime Minister Zapatero in 2005, there was a unilateral process of dialogue *within* the Abertzale Left movement. They came to the realization that "violence was preventing the Abertzale Left from bringing the political process to a new phase" (Elejabarrieta Diaz 2015:159).

While the political currents in the Abertzale Left movement had shifted towards feeling the military and political pain, by the mid-2000s the institutional equilibrium within the whole political-military apparatus had not yet shifted. Proscription and the illegalization of Batasuna did not succeed in pressuring ETA to transition. If anything, according to Teresa Whitfield (2014:161), it actually strengthened "ETA's hegemony over the nationalist left." The political wing could not make a successful case for a political path vis-à-vis the armed wing, because proscription made any process of discussion amongst political parties impossible and it was hindering efforts to resolve the conflict. There was no way out. By proscribing Batasuna, it disenfranchised a sector of the electorate infinitely larger than could be directly linked to ETA.

³⁶⁸ Senior member of Batasuna, *Personal interview*, August 2012, Bayonne, France.

There was no inter-party way out for ETA. The armed group had no partner to do business with. However, the Abrazale Left succeeded in fostering their own intra-party way out by creating their own ‘political landing strip’ through “intense political activity, assisted by the discreet engagement of international actors and concluding with the return of radical nationalists to electoral politics” (Whitfield 2014b).

The situation was blocked at the national level, so the political landing strip only happened at two other levels: the local level and the international level. At the local level in the Basque country, civil society and political parties have played an important role. Since the late 1980s voices have been emerging in support of non-violent political solutions in the Basque country (Telledis 2011). In particular, the social movement Elkarri (1992-2006) and its successor Lokarri have “enabled civil society to play a role of ‘social mediator’” (Haspeslagh and Dudouet 2015: 112) by convening social forums and major conferences bringing together different political parties and social actors, leading to several inter-party draft agreements. The illegalisation and international proscription of Batasuna led to the radicalisation of the moderate circles within the Basque nationalist movement (Telledis 2011:187; Heiberg 2007:45). These civil society movements engaged with the more radical fringes and made the case for dialogue and non-violent politics. These social movements helped create political space within the Basque region for the Abrazale Left, yet this was still not equivalent to being able to participate in elections.

Batasuna, as we saw above, had realised that violence was working against the Abrazale Left politically. In February 2011, for the first time, the party actively distanced itself from violence by explicitly rejecting political violence in the Charter of Sortu, the successor party to the banned Batasuna. It was only later on that year that they were able to participate in regional elections under the guise of Bildu – the successor party to Sortu - after a last-minute approval by the Constitutional Court. This shift allowed the Abrazale Left to return to democratic politics. Bildu won 25 per cent of the vote, which was a much stronger result than the Abrazale Left had ever secured. According to Teresa Whitfield (2015), this electoral victory ended the internal debate within ETA. The institutional equilibrium shifted in favour of a unilateral transition away from violence now that the group could see another path to achieving their goals – a political way out.

Internationals played a limited yet an important role in ripening the ETA situation. Because of international proscription mainstream European political parties shunned Batasuna. As noted above, the only groups willing to meet them were other nationalist movements with similar trajectories. In this case, however, one of those groups was Sinn Fein. Indeed, ties between Basque nationalism and Irish republicanism are long and deep (Whitfield 2015). The isolating effect of proscription in this case pushed the group towards an actor, Sinn Fein/IRA, which had itself made the transition into a non-violent political actor. This had a beneficial impact on Batasuna's transition and its condemnation of violence (Haspeslagh 2013).

Moreover, while the involvement of international third party actors had always been a sensitive issue in the Spanish context with a preference for *weak* mediators (Whitfield 2014), their involvement became more challenging. Batasuna was able to remain in contact with a number of international conflict resolution organisations such as the Center for Humanitarian Dialogue, Berghof Foundation, Conciliation Resources or the Carter Centre as well as certain prominent individuals in the peacemaking world such as the South African lawyer Brian Currin or the Irish Catholic priest Father Alec Reid.³⁶⁹ The government on the other hand refused to engage with these third party actors. The focus of these actors in a context where the government had explicitly rejected the possibility of negotiations had been to edge ETA and the Abertzale Left towards non-violence (Haspeslagh and Dudouet 2015). This was exemplified by the Aiete conference in October 2011. The carefully orchestrated event brought together international leaders, such as former UN Secretary general Kofi Anan and Gerry Adams the leader of Sinn Fein, to call on ETA to declare a definitive ceasefire. Days after the conference, ETA declared a definitive end to their armed activity.

Third party actors and Sin Fein played a crucial role in helping ETA move away from military confrontation. They effectively became an interlocutor for ETA in the absence of the government and created the political and practical space for ETA to end their military strategy. How is it that these actors did not feel constrained by international proscription? It is possible to think that the INGOs and individual peacemakers felt less constrained by the proscription

³⁶⁹ Brian Currin was a South African lawyer who played a key role in establishing the Truth and Reconciliation Commission in South Africa; Father Alec Reid was a catholic priest who had played an important facilitation role in the pre-negotiations of the Northern Ireland peace process.

regime in the Basque context, compared to the Colombian context, because they saw themselves as engaging with the political, non-armed wing as opposed to being in contact with ETA directly even though both were listed. But proscription was still an impediment for these actors.³⁷⁰ Though the Spanish government somehow tolerated these *weak* third parties, later on a number of these international actors, who had been in close contact with the Abertzale Left, such as Brian Currin for example, came under attack (Haspesslagh and Dudouet 2015). Members of the International Verification Commission (IVC), set-up as a mechanism for ETA to hand in their weapons unilaterally, were forcibly flown to Madrid to testify before the National High Court for ‘contacts with terrorists’ (Basque Permanent Social Forum 2017).

In the absence of a ‘linguistic ceasefire’, the political landing strip became the most important avenue for the listed groups to transition. This unilateral process led to ETA giving-up on its armed struggle and even handing in weapons. In April 2017, 3.5 tons of arms, explosives and ammunitions were handed in to the French authorities by the IVC (Basque Social Forum 2017). This however does not mean that there is no need for some sort of peace process with the Spanish government. The lack of a process at the national level has been deeply felt. Not just because this is a political problem for which some form of peacemaking between actors is necessary (Whitfield 2015). But, as the difficulties surrounding ETA handing in its weapons illustrate, at a very practical level there needs to be some sort of process to deal with the consequences of the conflict. ETA’s unilateral transition can be understood as a type of protracted pre-negotiation in which the proscribed entity had to fully commit to a process of self-devilification and building confidence with its opponent. This included declaring the permanent end to its violence and getting an international commission to verify the end of their armed activity.

In the case of the Basque country, international proscription has impeded a peace processes between the Spanish government and ETA. While efforts at pre-negotiations between the parties were already challenging pre-9/11 because the terrorism framing of the conflict had already taken hold, they became impossible

³⁷⁰ At the time, I was working as Head of Policy for Conciliation Resources and this engagement with members of Batasuna sparked multiple internal conversations on the possible legal and political implications of engaging with an entity proscribed by the EU and the UK. Moreover, it also led the organization to actively work on the issue at a policy level through a series of workshops and advocacy towards the EU and the UK to allow for this type of engagement with proscribed entities.

after 9/11. One key factor has been the proscription not only of the armed group, ETA, but also of Batasuna, the political party of the Abertzale Left. While the material effect of proscription had little impact at the international level in terms of asset freeze and travel bans, the symbolic implications (and its associated material effects) were colossal for the Abertzale Left. The whole movement was deeply delegitimised and isolated resulting in concrete material difficulties. At the same time it bolstered the Spanish government to such a degree that it stopped them feeling a hurting stalemate. Moreover, by entrenching the idea that ETA and Batasuna were terrorists that could not be negotiated with and by uplifting the ‘victims of ETA’ to an untouchable status, the government made it impossible for itself to shift its strategy. No ‘linguistic ceasefire’ could hold and no perceived symmetry could be created between parties. The only way out was for the armed group to unilaterally end its armed strategy, as a prelude to a possible future peace process with the Spanish government.

Conclusion

This analysis of the Basque case shows that the analytical framework can be applied to other (similar) cases. With more time and space the investigation could be deepened significantly and much more detail added from primary sources, but already by applying it in a light-touch way, mainly to secondary literature, the analysis was able to assess the impact of proscription on the Basque peace process. This illustrates the potential usefulness of the thesis’ innovative framework to study the effect of proscription on the inception of peace processes.

The Basque case shows that the contrast between the pre- and post-9/11 scenarios might not be as pronounced as was the case with the FARC in Colombia. In the Basque country the ‘terrorist’ framing was already deeply established at a national level. What 9/11 and international proscription did was to embed this characterisation and give it international legitimacy. But even in this case, the analysis showed that international proscription had a deeply detrimental effect on the possibilities of negotiations between the Spanish government and ETA.

There were two other dimensions that were different from the Colombia case and played central roles in the (lack of) pre-negotiation process in the Basque

case: (1) the international proscription of a political party; and (2) the role of the victims of terrorism. While the analytical framework was able to pick up on these dynamics thanks to the intra-party dimension, a further refinement of the analytical framework could make these more explicit. In the case of the FARC, for example, because it did not have a political wing, the analysis was focussed on understanding how proscription affected differently those in the FARC leadership or the leadership of Alfonso Cano in getting the institutional equilibrium to change. But in cases where an armed group has a political wing there might be different dynamics at play when the political wing is not listed internationally. For example, in the case of Hezbollah, where certain countries only list the military wing, others also list the political wing.

The framework allowed us to look not only at the intra party dynamics but also at both parties in interaction. This was useful to understand how proscription affects the dynamic interaction between parties and is particularly worthwhile in a context where much of the literature on ‘terrorists’ only looks at the armed group in isolation. This literature fails not only to understand the armed group in its wider context, but it also fails to take into consideration the effects of counter-terrorism policies on state actors as well as on the dynamics of peace processes. This thesis shows that international proscription affects the state as much as the armed group.

International proscription has re-shaped how peace negotiations can be initiated, making pre-negotiations longer and more protracted. But even beyond pre-negotiation, it is also clear that it has had a qualitative impact on how peace is defined and pursued. By taking sides against the armed group, international proscription has led to a counter-terrorist framing which has put the burden of change on the listed armed group. The next chapter assesses the contribution of the thesis to a range of scholarly literatures and highlights future research avenues and policy implications.

Chapter Nine

Conclusion

Introduction

Though politicians claim not to negotiate with ‘terrorists’, they do. This contradiction lies at the heart of the thesis. The work explored how international listing of armed groups as ‘terrorists’ affects negotiations and peace processes. The specific question I set out to answer is how international proscription affects the pre-negotiation phase or the way in which conflict parties get to the negotiation table. The answer, as Chapter 8 made apparent, is complex and multifaceted but it is clear that proscription influenced pre-negotiation deeply, making it harder and more prolonged. In particular it affected the timing and sequencing of peace processes. The ‘linguistic ceasefire’ became a necessary condition not just for de-vilification but also for creating a sense of symmetry and the establishment of a way out. International proscription also distorted the classic conflict resolution paradigm of ripeness and deeply reduced the space for third party intervention.

Because this thesis is exploring an emerging field of academic study, this concluding chapter will do three things. First it will highlight the contribution made by the thesis to a range of scholarly debates. Second, it will explore some of the possible future research avenues sparked by the work. Finally, the chapter will turn to consider the policy implications of this research.

I. Contribution

The thesis produced insights on international proscription, an understudied phenomenon, and developed an analytical framework to study its effects on the initiation of peace processes. Because it straddled a number of scholarly literatures, this thesis offers theoretical contributions to a range of debates. It also suggests an approach to studying the effects of proscription by taking 9/11 as a critical juncture. Moreover, by applying the framework to two pre-negotiations with the FARC in Colombia the thesis also makes an empirical contribution to the study of peacemaking in Colombia.

1. Theoretical contribution

The thesis provides insights to a number of strands of literature covered in Chapter 2. Most directly, it contributes to the nascent scholarship studying proscription and peacebuilding, most of which had focussed on the impact of proscription on third party actors or peacebuilding actors (Haspeslagh 2013, Birkeland 2014, Haspeslagh and Dudouet 2015, Hayes et al. 2015). It confirms that proscription makes the engagement of third party actors with listed armed groups more challenging. The case studies showed that only *weak* third parties or the ones that had opted out of the international proscription regimes were effectively able to play a role during the pre-negotiations. It also adds to this work by showing *how* these third parties, particularly civil society actors, found innovative ways to overcome these challenges through epistolary exchanges and pastoral dialogues with the proscribed group for example.

Moreover, this thesis broadens the perspective and shows that beyond third parties, proscription also had deep effects on the actors themselves, which in turn affected the central dynamics of pre-negotiation. For example, when it came to (a)symmetry, proscription deeply altered the power relations between the parties. The burden of proof was shifted to the proscribed armed group who was either effectively asked to surrender or had to put in place all the confidence building measures vis-à-vis the government. This made the establishment of a parity of esteem challenging in the case of Colombia and impossible in the Basque country.

This heightened asymmetry, underpinned by proscription, also had an impact on the government - the ‘unconstrained side’. Because its legitimacy was bolstered to such an extent at the international level, the government’s perception of a mutually hurting stalemate was clouded. Moreover, having built up the image of a ‘terrorist’ organisation internationally and nationally, the government created a policy straightjacket for itself that was so tight fitting it ended up with no room for manoeuvre and thus no way out.

This thesis shows that international proscription goes beyond shaping the “kind of peacebuilding possible” (Hayes et al. 2015:44), it actually shapes the kind of *peace* that is possible between actors. It alters the relationship between the conflict parties and thus the central dynamics of pre-negotiation.

By developing an analytical framework to study the effects of proscription, the thesis contributes to a more systematic analysis of the phenomenon. The

application of the framework to Colombia and the brief Basque case showed that the symbolic effects of proscription were most pronounced. This confirms much of the findings from the work on sanctions (Cortright and Lopez 2000 Biersteker, Eckert, Tourinho et al. 2013). However, by looking at both material and symbolic effects in interaction, the thesis also showed how the symbolic effects created new material implications as Chapter 8 made apparent. This point would have been missed by an approach that only focussed on the symbolic effects, like the constructivist literature on labels (Bhatia 2005; Nadarajah and Sriskandarajah 2005; Russell 2005; Renner and Spencer 2012). It is thus crucial to study the symbolic and material effects of proscription in interaction.

As a type of targeted sanction, the study of proscription should be of interest to the sanctions scholars. This thesis offers them a better understanding of how sanctions affect non-state armed actors, which had not been the focus of their work. Moreover, because they failed to look at sanctions as a dynamic process, they had shown little interest in understanding what targeted actors actually need or perceive. This thesis illustrates the importance of understanding how both parties perceive and understand proscription's material and symbolic effects.

While most of the securitization literature had focussed on the constitutive side when it comes to the study of proscription – i.e. how lists come together (Bourne 2018; Jarvis and Legrand 2016, 2017, 2018), one securitization author, de Goede (2012), had highlighted the productive power of lists. While she explored their effects only at an individual level, this thesis broadens the focus to the armed group but also to the dynamic interaction between the group and the government, as well as third parties. Because the securitization approach is one-sided, it does not help us understand the relational dynamics between actors. This thesis brings a relational focus to the study of proscription. By anchoring the analysis in the peace and conflict literature it allowed for an analysis of both conflict actors and their relationship and interaction. This enabled the thesis to bring to the fore the key effects of proscription on intra- and inter- party relations to understand the ways in which proscription affect the central pre-negotiation dynamics.

The analytical framework was squarely rooted in the peace and conflict literature. But because pre-negotiations are under researched compared to actual negotiation processes, new light was shed on a phase of negotiation that is often

shrouded in secrecy. More specifically, the thesis critically revisited and extended central ideas of the pre-negotiation literature namely vilification, symmetry and ripeness, drawing out key components of these dynamics. It also added new concepts such as the ‘linguistic ceasefire’ and the ‘political landing strip’.

The work thus follows in the footsteps of critical terrorism studies scholar Harmonie Toros (2008, 2012) by placing the study of terrorism and the ‘terrorist’ label in the context of the conflict and peace literature. Toros (2008, 2012) argued that the terrorist framing forestalls non-violent approaches. This thesis adds to this work by shedding light on how this happens but also on how negotiations *do* still take place with groups considered ‘terrorists’. By developing the idea of the ‘linguistic ceasefire’, this thesis offers a way of understanding why certain conflicts remain stuck in the ‘terrorist’ framing while others emerge from it. The analysis of the two cases, one where the ‘linguistic ceasefire’ took hold (Colombia) and one where it did not (Basque country), albeit briefly, illustrates the contribution of this thesis to understanding why negotiating with an internationally proscribed group was possible in one context, but not in another. It also adds a linguistic approach to the study of peace and conflict.

2. Research design: 9/11 as a critical juncture

The thesis makes the case that 9/11 is a critical juncture when it comes to the study of international proscription and the ‘terrorist’ label. As Chapter 3 made clear, it was after 9/11 that the UN Security Council used Article 51 of Chapter VII, on the right to self-defence, for the first time following an attack by a *non-state* actor. UN Resolution 1373 set proscription regimes against non-state actors at the heart of the multilateral agenda. The ‘terrorist’ tag was no longer just a label used by belligerents against each other, but the whole international community now stood behind this particular label with clear symbolic and material implications. This thesis argues that there is something specific about being labelled a ‘terrorist’ post 9/11 that leads to a form of extreme vilification. The emergence of the international proscription regime post 9/11 has imbedded an understanding of what terrorism is and who should be considered a terrorist which has deeply shaped the meta narrative and how conflict are understood as well as how they can be resolved.

The research design used in the thesis can be particularly useful to liberal peace literature (Richmond 2003; Richmond and Franks 2009; Franks 2009; Richmond and Telledis 2012) which has suggested that orthodox terrorism discourse had been used when there was no real interest in dealing with the root causes of conflict. Having failed to take 9/11 as a critical juncture into consideration, the work of Richmond and Franks (2009) for example, did not give a persuasive account of why the ‘terrorist’ discourses was successfully shifted in Northern Ireland (pre-9/11), but in none of the other four case studies (post-9/11) which they studied.

3. Empirical contribution on Colombia

As the main case study and the detailed empirical analysis was on Colombia the thesis offers a rich empirical contribution to scholarship on the country. Based on over fifty personal interviews and a discourse analysis of 335 statements by successive Colombian governments and the FARC over twenty years, the thesis offers new primary sources for the study of the Colombian conflict. Moreover, getting a multiplicity of perspectives, even from the FARC itself, is rare and challenging in a context as polarised as Colombia. The fieldwork having been conducted in Colombia and Cuba, during the on-going negotiations, offers a rare glimpse into a key moment in the country’s history. Moreover, as the late Virginia Bouvier (2009) pointed out, much of the focus on Colombia has been on violence, with some notable exceptions.³⁷¹ This thesis offers a counter-point to this literature, contributing a detailed analysis of peace and peacemaking in particular.

Having highlighted the theoretical and empirical contributions of the thesis and how they relate to on-going academic debates, the chapter now turns to reflecting on ideas for future research.

II. Future research avenues

Because the thesis focussed on an under explored phenomenon, the research generates a range of possible new research avenues. Some are about applying the analytical framework to a range of new cases, others are broader and relate to other qualitative and quantitative research avenues.

³⁷¹ See Téllez, Montes and Lesmes (2002), Gonzalez Posso (2004), Rojas and Meltzer (2005), Chernick (2007, 2012), García-Durán (2004, 2006), Bouvier (2009), Saramineto Santander (2011), Hernández Delgado (2012) and Mitchell and Rojas (2012), Karl (2017).

The brief application of the analytical framework to the Basque conflict showed its potential to interpret the effects of proscription on other peace processes. It could be applied to a range of other conflicts where the armed group has been listed as a terrorist organisation. Having adapted the work of Rebecca Adler-Nissen (2014) on the reaction of stigmatized states in world politics to the case of non-state armed groups, the thesis explored how armed groups may react differently to the 'terrorist' label. It could be particularly interesting to apply the framework to cases where the listed entity has embraced the stigma as a badge of honour, which has been the case of some listed Islamist armed groups for example, assessing whether differences in armed group reaction changes the effect proscription has on the dynamics between the armed group and the government.

The analytical framework could also be adapted to look at the effects of proscription on other phases of peace processes, beyond pre-negotiation. One possible avenue for research would be using the material and symbolic effects of proscription as a basis for honing in on other central dynamics at play during negotiations and in the post-agreement phase. Another possibility would be to adapt the framework with levels of analysis so it can differentiate the impact of proscription at the international, national and local levels.

It would also be worthwhile to investigate more specifically how the embedding of proscription post-9/11 in the international system affected international mediation actors. By embedding proscription regimes, inter-governmental organisations like the UN and the EU have taken sides and lost impartiality? Has this affected their potential roles in mediation processes? Have certain regional actors who have developed listing regimes, such as the EU or the African Union, been more affected than others? Do they now engage listed actors on very different terms?

There is also a promising research avenue in the concept of the 'linguistic ceasefire'. Future work could assess how wide and deep it needs to be. Is it just an elite-level pact to get negotiations off the ground? What about the broader public? How far and by whom does it have to be 'accepted' for it to take hold? Does it have to be accepted by the broader public to positively influence the post-agreement transition? In which cases would it not work? In the case of the Basque country, we saw how difficult it was to mobilise in the face of opposition from the

victims of terrorism associations. This also points to the broader questions on the effects of proscription on the politics of victimhood in conflict transformation.

If qualitatively the study of this subject is very recent, quantitatively it is non-existent. There are no datasets on proscription regimes or statistical analysis looking at the relationship between the listing of armed groups and peace processes. One avenue that could be a good starting point and an interesting test for this thesis is to look at whether proscription delays the onset of negotiations. Has it taken longer to get negotiations off the ground in a post 9/11 context, as this research would suggest?

Finally, there is a whole methodological and ethical strand of work that could emerge looking at what it means to research proscribed groups: the ethical challenges involved, but also the limitations faced and the impact it is having on the knowledge we are generating on listed armed groups. These all have clear policy implications, which the chapter now turns to.

III. Policy implications

This thesis has direct implications for policy. It showed that proscription had a qualitative impact on the way in which wars against listed armed groups have been and are being fought and the possibilities of resolving them peacefully. International proscription makes pre-negotiations longer and more protracted in effect re-shaping how peace processes can be initiated.

As a central counter-terrorism tool, proscription is now so deeply embedded in the UN system, and so widely embraced by a range of global actors, that international actors have in effect taken sides against these listed armed group. International proscription has bolstered governments in conflict contexts to an extreme degree and made international policy lose sight of a central conflict dynamic: namely state violence. Western governments and international organisations have found themselves aligned with and supporting dubious military and policing strategies often accompanied by human rights violations.

While the objective of proscription is to contain security threats, it has not succeeded in ‘hurting’ listed armed groups in material terms. Proscription did not have important material effects on the listed armed groups in the two cases explored in terms of funding or international travel. To be effective, policies

would need to be tailored to individual circumstances but proscription regimes “stresses uniformity rather than variation” (Pillar 2003: 150). Moreover, international proscription has meant the ‘unconstrained side’ is led too believe there are no limits to its military options, leading to a prolongation of wars. This should spur a re-think and a reassessment of the actual impact of proscription on the targeted entities and the ‘unconstrained side’ in conflict contexts.

While proscription does appear to be a successful strategy when it comes to stigmatizing and de-legitimising an armed group, this research illustrates that it is also incredibly hard to rollback and makes engaging the listed armed group in peace negotiations that much harder. The label sticks and even when the ‘linguistic ceasefire’ allows negotiations to get off the ground, the deep de-legitimation of the armed group, and often the whole socio-political community associated with it, makes it near impossible to reverse. This affects the group’s possibility of transforming into a non-violent political actor. It can also disenfranchise large sectors of the electorate, as was the case in the Basque country.

Proscription is also changing the types of third party interventions possible: how directly actors can engage with certain groups, whom they can engage with and where they can engage. But effective peacemaking requires an understanding of all stakeholders in a conflict, including armed groups, whether on a terrorist list or not. Proscription regimes are problematic as they criminalize contact or dialogue with listed entities. Instead, international policy should be supporting these resilient and adaptable third party actors rather than criminalizing their contact with listed groups. Indeed these are often the people who play an important role in edging armed groups towards non-violence.

The breadth and depth of research on proscribed groups is also being affected. This is having an effect on the quality of interventions in any given context because there is simply less knowledge on these groups, which limits our understanding. In academia, research on listed groups is being increasingly discouraged by ethics committees in UK universities, less fieldwork is being done and funders are increasingly wary of supporting this type of work (Dumasy and Haspeslagh 2016). This thesis was only possible because the UK government does not list the FARC, so field work was approved by the university’s ethics committee. It would have been much harder to justify personal interviews with

ETA or members of an Islamic armed group. If this thesis shows anything it is the importance of getting the perspective of the proscribed armed group itself.

One fundamental problem with proscription regimes is that they criminalise the actor and not just the acts of terrorism. It is this amalgamation between actors and acts that needs to end. By focussing just on the acts, international policy could consider both the violent actions of armed groups and those of the state. By shifting the focus away from the actor towards the acts it would condemn terrorist acts placing them in a broader arsenal of possible warfare tools, instead of turning the armed group itself into being *just* terrorists. By separating the act and the actor change, and thus peace, become possible.

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